

INDIAN AFFAIRS COMMITTEE

NEW MEXICO STATE LEGISLATURE

2006

INTERIM REPORT



December 2006

*New Mexico Legislative Council Service
411 State Capitol
Santa Fe, NM 87505*

INDIAN AFFAIRS COMMITTEE 2006 INTERIM SUMMARY

At its initial meeting of the 2006 interim, the Indian Affairs Committee (IAC) identified 11 areas upon which it intended to focus during the 2006 interim: 1) certification of the authenticity of Native American art and handicrafts and enforcement of existing federal and state laws relating to the sale of Native American arts and crafts; 2) capital outlay, including tracking the expenditure of allocated funds, coordination with the Navajo Nation and implementation of the Tribal Infrastructure Act; 3) implementation of the Indian Education Act, the status of the Indian Education Division with the Public Education Department, teaching Native American languages and cultures, scholarships at tribal colleges and student retention at post-secondary schools; 4) health care in Native American communities, including urban and school-based health clinics and the status of Indian Health Service facilities and staffing; 5) the relationship between the state, the tribal entities and the Federal Bureau of Indian Affairs regarding the improvement and maintenance of rural roads and rural transportation; 6) providing for the cultural and religious needs of Native Americans incarcerated in New Mexico; 7) regulation of the payday lending industry; 8) civil rights issues affecting Native Americans; 9) tribal involvement in homeland security; 10) off-reservation gaming by tribal entities; and 11) identification requirements for Native American voters. Following its traditional scheduling procedure, the IAC scheduled many of its meetings to be held at chapters of the Navajo Nation, pueblos and Indian-related institutions. IAC meetings were conducted at the following locations in addition to the State Capitol: the Hogback, Newcomb, Pinedale and Red Valley Chapters of the Navajo Nation, the Pueblos of Laguna, Sandia, Santa Clara and Zuni, the Mescalero Apache Tribe in Mescalero, the Gallup and Albuquerque campuses of the University of New Mexico, the Indian Pueblo Cultural Center in Albuquerque and the Institute of American Indian Arts and the Santa Fe Indian School in Santa Fe. At each meeting located at a chapter house or pueblo, the committee began its meeting with a presentation by the chapter president or pueblo governor on matters of local concern.

At its organizational meeting held at the State Capitol in May, Chase Van Gorder, staff attorney, reviewed the fate of the committee-endorsed proposals for the 2006 legislative session. Secretary of Indian Affairs Benny Shendo, Jr., introduced new members of the department's staff. With the addition of the newly authorized staff person to deal with the technical and engineering aspects of capital outlay projects overseen by the department, the Indian Affairs Department will have its full complement of 13 full-time staff members. Regarding capital outlay issues, Secretary Shendo noted the Indian Affairs Department and the Department of Finance and Administration have drafted proposed rules to implement the provisions of Senate Bill 579, which was enacted in the 2006 legislative session. Rebecca Martinez, capital outlay manager, Indian Affairs Department, reported on the status of capital outlay training for tribal entities and on the status of capital outlay projects being administered through the Indian Affairs Department. Commissioner of Public Lands Patrick Lyons reported on the status of efforts to legalize Native American home sites in the checkerboard area that are located on state trust lands. An agreement was signed on May 23 between the State Land Office and the Navajo Nation whereby existing grazing leases were amended to include existing home sites. Now that the status of home sites on state trust lands has been confirmed through the amended leases, utility companies will be able to provide services to these homes. Dr. Robert Behrendt,

education performance auditor with the Legislative Finance Committee (LFC), presented the results of his audit of the implementation of the Indian Education Act. Dr. Behrendt also observed that there is an inherent conflict between the three major education laws: the federal No Child Left Behind Act, the New Mexico Indian Education Act and the Navajo Sovereignty in Education Act of 2005. Assistant Secretary of Public Education Penny Bird responded to the LFC audit on behalf of Secretary of Public Education Veronica Garcia, who was unable to attend the meeting. Agnes Maldonado, executive director of the New Mexico Coalition Against Domestic Violence, appeared before the committee to express concerns regarding the appointment of Sandra Gardner as the state's domestic violence czar and recent changes in the procedure for awarding TANF grants to domestic violence programs. Mr. Van Gorder presented the committee with a draft work plan for the 2006 interim and a sheet containing ideas for meeting locations and agenda topics.

The second interim meeting of the IAC was held in July at the Pueblo of Zuni, at the Gallup campus of the University of New Mexico and at the Pinedale Chapter of the Navajo Nation. On the first day of the meeting, representatives of the Pueblo of Zuni gave a status report on the activities of the pueblo. Issues regarding regional transportation planning were addressed by Mark Maryboy, chair, Transportation and Community Development Committee, Navajo Nation, Tom Platero, director, Department of Transportation, Navajo Nation, Arbin Mitchell, director, Division of Community Development, Navajo Nation, Raphael Martin, chair, Road Committee, Eastern Navajo Agency, Paulson Chaco, planning and community development director, Ramah Chapter, Navajo Nation, Royce Gchachu, director, Department of Transportation, Pueblo of Zuni, Irvin Bekis, transportation division manager, Navajo Regional Office, Bureau of Indian Affairs, and Douglas MacDonald, highway engineer, Southwest Regional Office, Department of Transportation, Bureau of Indian Affairs. Representatives of the Department of Transportation, including Robert Ortiz, deputy secretary of operations, Steve Harris, chief engineer, Ricardo Roybal, project development engineer, Larry Maynard, district engineer, District 6, and Fernando Trujillo, assistant district engineer, District 6, updated the committee on the status of improvements to State Highway 491. The second day of the meeting began with a welcome by Elizabeth Miller, executive director at the Gallup campus of the University of New Mexico, and a status report on activities at that campus. Sanjay Choudrie, executive director of CARE 66, gave a presentation to the committee regarding the programs of CARE 66. John D'Antonio, state engineer and secretary of the Interstate Stream Commission, Estevan Lopez, director with the Interstate Stream Commission, Ray Benally, director of the Navajo Nation Department of Water Resources, Rege Leach, the Bureau of Reclamation, United States Department of the Interior, and Lance Allgood, executive director of the City of Gallup Joint Utilities District, participated in a panel discussion regarding the Navajo-Gallup Water Supply Project. Rebecca Martinez, capital outlay manager for the Indian Affairs Department, Rick Martinez, deputy secretary of the Department of Finance and Administration, and Robert Apodaca, director of the Local Government Division of the Department of Finance and Administration, presented to the committee on the status of capital outlay appropriations to the Navajo Nation and its chapters in New Mexico. Casey Begaye, director of the Navajo Nation Capital Outlay Office, and Arbin Mitchell, director of the Navajo Nation Division of Community Development, addressed the committee from the perspective of the Navajo Nation. In discussing

the impact of Senate Bill 579 (Chapter 105) from the 2006 legislative session, Latonia Becenti of the Navajo Nation Department of Justice indicated that the nation opposed the provisions of the bill calling for direct payment to chapters as imposing on tribal sovereignty and circumventing Navajo Nation laws. Milton Bluehorse, Jr., from the Navajo Nation Office of the President/Vice President, also indicated the administration's opposition to the provisions of Senate Bill 579. Stephanie Kiger, general counsel for the Indian Affairs Department, and Governor Ernest Chavez and Kathy Newby, members of the Tribal Infrastructure Board, updated the committee on the status of the implementation of the Tribal Infrastructure Act passed during the 2005 legislative session. Robert J. Siebersma, executive director of the High Desert Jewelry Producers Association, presented to the committee regarding the importance of tourism to the state's economy and problems related to the import and sale of so-called "Indian" jewelry that in fact is not made by Native Americans. The last day of the meeting was at the Pinedale Chapter of the Navajo Nation and began with a welcome and status report on the chapter by Lawrence Morgan, chapter delegate to the Navajo Nation Council and speaker of the Navajo Nation Council, Sarah Jackson, secretary/treasurer for the chapter, and Chapter President Raphael Martin. Louise Mariano, chapter coordinator for the Iyanbito Chapter, gave a status report on the activities of that chapter. Bill Jordan and James Sandoval of New Mexico Voices for Children and Matt Onstott, acting director of the Medicaid program at the Human Services Department, briefed the committee on new proposed federal rules regarding requirements for proof of citizenship for Medicaid eligibility.

The third interim meeting of the IAC was held at the beginning of August at the University of New Mexico and the Indian Pueblo Cultural Center in Albuquerque and at the Pueblo of Laguna. The first day of the meeting was held at the Hibben Center at the University of New Mexico. Dr. Reed Dasenbrock, provost and executive vice president for academic affairs at the university, and Pamela Agoyo, special assistant to the president for American Indian affairs, reviewed what the university was doing to address the needs of Native American students. Dr. Sherman Wilcox, chair of the Linguistics Department, and Roseann Willink, lecturer in the Navajo/Diné language program, briefed the committee on university programs related to teaching the Navajo language. Dr. Paul B. Roth, executive vice president of health sciences and dean of the UNM School of Medicine, briefed the committee on Native American health care at the health sciences center. Patricia Y. Olson, assistant to the area director of the Navajo Area of the Indian Health Service (IHS), and Jim Toya, director of the Albuquerque Area of the IHS, addressed the committee regarding services provided by the IHS. The second day of the meeting was conducted at the Indian Pueblo Cultural Center. Dwayne Virgint, chief operating officer of the Indian Pueblo Cultural Center, welcomed the committee and briefed the committee on the history of and activities at the center. Mr. Virgint noted recent upgrades to the facility and repairs and renovations totaling \$4.8 million that will be needed over the next few years. Dr. Gregory A. Cajete, director of the Native American studies program at UNM, and Peter White, dean of University College, presented a proposal for UNM to institute a master's degree program in Native American studies. A panel addressing issues related to the Aging and Long-Term Services Department (ALTSD) included Deputy Secretary Patsy Trujillo, Deputy Secretary Michael Spanier and ALTSD staff members John Aquino, Bernadine Salazar and Ray Espinoza. Patrick Lopez, a lawyer working within ALTSD, discussed problems the department

is having in working with the Navajo Nation to expend capital outlay appropriations. Dr. Veronica C. Garcia, secretary of public education, Dr. Nancy Martine-Alonzo, assistant secretary for Indian education, Dr. Larry Emerson, chair of the Indian Education Advisory Council, and Dr. Maggie George, director of the Educational Equity and Access Division, Higher Education Department, participated in a panel discussion on Native American education issues. Norman Ration and Keith Franklin presented to the committee regarding a Native American education reform proposal on which they have been working. The final day of the meeting was held at the Pueblo of Laguna. Roland Johnson, governor of the Pueblo of Laguna, welcomed the committee to the pueblo and reviewed the history of the pueblo and its current activities. Dorian Dodson, secretary of children, youth and families, updated the committee on Native American domestic violence services provided through the department. Sandra Gardner, the state domestic violence coordinator, reviewed with the committee statistics related to the frequency and types of domestic abuse occurring in New Mexico. Agnes Maldonado, executive director of the New Mexico Coalition Against Domestic Violence, reviewed the services provided by coalition members and its sources of funding. Peggy Bird, a member of the Council of Peace of the Coalition to Stop Violence Against Native Women, briefed the committee on the nature of the organization and its objectives. Election issues were addressed by a panel that included Martin Aguilar, coordinator of the Native American information program with the Bureau of Elections of the Office of the Secretary of State, Lucille Hooper, tribal secretary of the Pueblo of Laguna, Cyndie Arrossa, Cibola County chief deputy clerk, Adrienne Lucio, Cibola County election clerk, and George Trujillo, Cibola County election coordinator.

The fourth interim meeting of the IAC was held at chapters of the Navajo Nation in the northwestern part of the state. The first day of the meeting was conducted at the Newcomb Chapter. Thomas Joe Yazzie, president of the Newcomb Chapter, welcomed the committee and reviewed the chapter's history. Willamena Smith, vice president of the chapter, described the work that was done by chapter officials to have the chapter certified under the Navajo Nation Local Governance Act. Herbert Clah, director of the Shiprock Local Government Support Center of the Navajo Nation, gave a brief overview of Title 26 of the Navajo Nation Code (Local Governance Act), gave a PowerPoint presentation on the history of that law and reviewed the steps that chapters must take to become certified. Ryan Claw, auditor general of the Navajo Nation, also reviewed the provisions of the Local Governance Act and the involvement of his office in the certification process. Freddy Sanches, vice president, and Nathan Plagens, director of project development of Sithe Global Power, LLC, and Steven C. Begaye, general manager of Diné Power Authority, briefed the committee on the status of the proposed Desert Rock Power Plant. Harrilene Yazzie, NEPA coordinator with the Navajo Regional Office of the Bureau of Indian Affairs (BIA), discussed the process to be followed in the preparation of an environmental impact statement, including public meetings on the Navajo Nation. A representative of Diné CARE expressed her opposition to the project. A panel consisting of Larry Emerson, Hoskie Benally, Shirley Lowe, Janet Slowman Chee and Rozana Lopez was present to brief the committee on the status of efforts to resolve a dispute between Navajo Nation community members and the Central Consolidated School District. Ellevina Perkins and Irene Silentman from the Native Language Academy asked the committee to support an appropriations request to fund the Living the Navajo Language into the Future Program of the academy. The

second day of the meeting was held at the chapter house of the Red Valley Chapter of the Navajo Nation. Phillip Harrison, Jr., president of the Red Valley Chapter, welcomed the committee to the chapter and reviewed the chapter's history and present status. Helena Benally, community services coordinator, updated the committee on the status of the power line extension project that is funded through capital outlay dollars. John McElroy, district engineer for District 5 of the Department of Transportation, reviewed the projects in San Juan County that are part of the Statewide Transportation System Improvement Program. Tom Platero, director of the Navajo Nation Department of Transportation, expressed appreciation to the committee for the state's support of joint state-tribal highway maintenance yards and reviewed the funding of his department. Kurt Arviso, community services coordinator for the Fort Defiance Chapter of the Navajo Nation, presented to the committee. The Fort Defiance Chapter lies mainly in Arizona but does receive capital outlay appropriations. Ralph Atcitty of the Teec Nos Pos Chapter of the Navajo Nation noted that his chapter is unique in that it is located in three states, New Mexico, Arizona and Utah, and includes the Four Corners Monument. He reviewed current events at the chapter and noted capital outlay requests that will be made in the coming legislative session. Everett Chavez, member of the Tribal Infrastructure Board, reviewed the provisions of the Tribal Infrastructure Act, the role of the Tribal Infrastructure Board and recent actions by the board. Rebecca Martinez, capital outlay manager for the Indian Affairs Department, discussed the educational outreach efforts of the department and technical issues regarding how the tribal infrastructure project funds might be used. The final day of the meeting was at the chapter house of the Hogback Chapter of the Navajo Nation. Charlie Jones, Jr., president, and Anita Hayes, community services coordinator for the Hogback Chapter, welcomed the committee to the chapter and described ongoing activities at the chapter. In view of recent events in the Farmington area, the committee requested that a panel of involved persons brief the committee on recent events concerning alleged civil rights violations. The panel included Chili Yazzie, president of the Shiprock Chapter of the Navajo Nation, and Bob Melton, San Juan County sheriff. Representatives of Farmington were invited to attend, but Mayor William E. Standley had written the committee to apologize for being unable to attend due to a prior commitment out of town. Mayor Standley provided the committee with a brief status report on civil rights issues and racial tensions in the Farmington area. President Yazzie provided the committee with a lengthy and detailed history of long-standing racial tensions and civil rights problems in the Farmington area. Sheriff Melton addressed the concerns expressed by President Yazzie so far as they related to the Sheriff's Office. In closing, President Yazzie made recommendations for addressing civil rights concerns.

The fifth interim meeting of the IAC was held in its entirety at the Inn of the Mountain Gods Resort and Casino in Mescalero. On the first day of the meeting, Celina Chino, first lady of the Mescalero Apache Tribe and director of retail operations for the Inn of the Mountain Gods, and Dale Webb, tribal administrator for the Mescalero Apache Tribe, welcomed the legislators to Mescalero and gave a status update on tribal affairs. Michelle Lujan Grisham, secretary of health, reviewed statistics of racial and ethnic health disparities in New Mexico and updated the committee on the department's activities and efforts addressing the health needs of Native Americans in New Mexico. Pam Roy, coordinator of the New Mexico Food and Agriculture Policy Council, and Representative Manuel G. Herrera addressed the need for

providing better access to healthy foods for rural and low-income New Mexicans and a proposal to establish a task force to address that issue. On the second day of the meeting, Mark Valenzuela, director of governmental affairs and legislative finance strategy for the New Mexico Finance Authority, and Paul Cassidy, managing director of RBC Capital Markets, presented information on the GRIP program and on governmental bonding programs in general. Mr. Valenzuela presented options for developing a bond program for transportation on tribal land. Dr. Donald E. Pepion, director of American Indian programs for New Mexico State University (NMSU), and Patricia Quintana, director of governmental affairs for NMSU, presented an update on the status of Native American students at NMSU and plans for the future of American Indian programs. Ken Tiller from the Pueblo of Laguna asked for legislative support to create emergency manager positions for 22 tribes in order to promote and coordinate emergency response to potential natural and manmade disasters. William E. Standley, mayor of Farmington, Bob Hudson, city manager for Farmington, Michael Burrige, chief of police for Farmington, and Lyndy D. Bennett, district attorney for the Eleventh Judicial District, reported the results of the Clint John investigation, solicited questions and talked about racial tensions in Farmington. On the final day of the meeting, Benny Shendo, secretary of Indian affairs, updated the committee on the activities of the Tribal Infrastructure Board. In a discussion of capital outlay appropriations and the Navajo Nation, Casey Begaye from the Navajo Nation Capital Improvement Department and Arvin Mitchell of Navajo Nation Community Development answered the committee's questions on the Navajo Nation's procedure for obtaining and distributing funds. The Navajo government is currently working on making its processes more efficient. Latonia Vicente, attorney for the Navajo Nation, stated the nation's position on Senate Bill 579 was unchanged. The Navajo Nation believes that the bill circumvents Navajo law and infringes on sovereignty with respect to direct payments. In general, the Navajo Nation requests that this bill be repealed.

The first day of the sixth interim meeting of the IAC was held at the Sandia Resort and Casino at the Pueblo of Sandia. Governor Lawrence R. Gutierrez welcomed the committee to the Pueblo of Sandia and the Sandia Resort and Casino. Governor Gutierrez and other representatives of the pueblo reviewed current activities at the pueblo and areas of concern, including education, health care, water quality, tribal water rights, solid waste, consultation on traditional cultural sites, storm water runoff and economic development. John M. Garcia, secretary of veterans' services, and Lou Helwig, director of field services for the Veterans' Services Department, briefed the committee on issues related to veterans' affairs. Mr. Helwig described in detail the Native American Tribal Veterans Representative Program, the purpose of which is to guide, tutor and coach tribal veterans' representatives within each tribe and pueblo to assist tribal members in obtaining benefits for military veterans and their families. Ed Lopez, superintendent of regulation and licensing, and Bill Verant, director of the Financial Institutions Division, Regulation and Licensing Department, led off the discussion of regulating the payday loan industry. The administration is committed to finding a solution to the payday lending problem, and the discussion draft of the bill that may be sponsored by Representative Patricia A. Lundstrom represents a balanced approach to the problem along the lines of House Bill 409 during the 2006 legislative session. John Rabenold, vice president of governmental affairs for Check 'N Go, addressed the issues from the industry perspective. Zackeree Kelin, an attorney

with DNA-People's Legal Services, commented that Native Americans are particularly vulnerable to predatory lending practices due to limited economic opportunities and higher rates of illiteracy. Payday lending is bad for the community because it takes away limited discretionary income. The objective should be to do away with payday loans and instead create alternatives to predatory lending. Mike Donnelly, an advocacy representative for AARP New Mexico, observed that this issue has been before the legislature for years and there has been no success in passing meaningful restrictions on payday lending. AARP advocates the use of a database to track the payday lending industry, a 30-day minimum term for payday loans, a single rollover, a mandatory payment plan, a limit on the total amount of payday loans that can be taken out by a consumer, mandatory cooling off periods and a rate of \$8.00 per \$100 for interest and fees. Representative Lundstrom presented a discussion draft of a bill that would amend the Indian Arts and Crafts Sales Act to create a voluntary certification mark program. Superintendent Lopez expressed the Regulation and Licensing Department's strong support for the bill. Kathleen O'Dea, director of the Boards and Commissions Division, described the role of the Regulation and Licensing Department in the operation of boards and how the department might interact with the board established pursuant to the draft bill. The second day of the meeting was at the Institute of American Indian Arts (IAIA) in Santa Fe. Ramus Suina, tribal relations specialist at IAIA, welcomed the committee to IAIA and briefed the committee on the nature of the school, including its student population and courses of instruction. Carl Duncan, president of the student government, also welcomed the committee and thanked it for its support of IAIA. Gil Yildiz, executive director of the Independent Living Resource Center (ILRC), and Joseph Ray and Juana Valencia, Native American liaisons with ILRC, presented the committee with their Native American Independent Living Initiative. Bob Gruenig, interim executive director of the National Tribal Environmental Council (NTEC), and Veronica Tiller presented NTEC's request for an appropriation for an international indigenous environmental film festival to take place in 2008.

The first day of the seventh meeting of the IAC was held at the Big Rock Casino in Espanola. Lieutenant Governor Alvin Warren welcomed the committee to the Pueblo of Santa Clara and reviewed with the committee the history of the pueblo. Calvin Tafoya, chief executive officer of the Santa Clara Development Corporation, briefed the committee regarding the economic development efforts of the pueblo. Bruce Bauer, forestry director for the pueblo, presented a PowerPoint presentation that discussed the reforestation of 4,036 acres following the Cerro Grande fire, stream restoration, sedimentation removal, bosque restoration, wildlife habitat enhancement, efforts to reduce insect and disease problems and firefighting. Lieutenant Governor Warren and Mel Tafoya addressed the committee regarding capital outlay appropriations. Following the presentation by representatives of the pueblo, members of the committee were taken on a tour that included the senior center. Martin Aguilar, coordinator with the Native American information program at the Bureau of Elections in the Office of the Secretary of State, and Amos Baca, voting machine technician, briefed the committee on voting statistics for the 2007 general election. Desi Brown, a volunteer who works with Senator Gerald Ortiz y Pino, made a brief presentation regarding proposed legislation that would permit voters to register on election day. Gregory Ridgley, deputy chief counsel, Office of the State Engineer, Ted Bagley, assistant state attorney general, Tanya Trujillo, general counsel for the Interstate

Stream Commission, and Myron Armijo, Native American water liaison with the Office of the State Engineer, briefed the committee on the status of pending Indian water rights settlements. The second day of the meeting was conducted at the Santa Fe Indian School in Santa Fe. Governor Ernest Chavez, director for trust land management, welcomed the committee to the school and introduced representatives of the student body. Governor Chavez reviewed the recent history of the school and Joe Abeyta, school superintendent, commented on the goal of moving education forward in New Mexico. Joe R. Williams, secretary of corrections, led a panel discussing the status of Native Americans with the New Mexico correctional system. Other panelists included Irma Sedillo, deputy secretary for operations, Jolene Gonzales, deputy secretary for finance, Charlene Knipfing, director of the Probation and Parole Division, Tex Joey, Native American advisor, and Len Foster, Navajo Nation Corrections Project. Senate President Pro Tem Ben D. Altamirano and Justin Jones and Joe Grenawalt from BHP Billiton addressed the committee regarding a proposed bill for the 2007 legislative session that would repeal the existing severance tax surtax on coal. Marilyn Hoff addressed the committee regarding a proposal that would enact legislation that would provide veterans and their families with the opportunity for testing for adverse health effects resulting from the use of depleted uranium weaponry in recent and ongoing combat operations. Arley Williams, principal analyst for the Legislative Finance Committee, presented a report responding to a request from the committee earlier in the interim for information regarding the University of New Mexico's expenditures for minority programming. Rebecca Martinez, capital outlay manager, Marlene Kelley, project engineer, and Stephanie Kiger, general counsel for the Indian Affairs Department, updated the committee on the status of capital outlay appropriations being administered through the department. Governor Ernest Chavez, a member of the Tribal Infrastructure Board, reported on the status of the funding requests for the current year and the board's approval of 10 projects. Governor Chavez concluded by noting that the \$5 million was able to address only a small portion of the needs of Native American communities and the state needs to find a way to fund the trust fund established in the Tribal Infrastructure Act. The final day of the meeting was held at the State Capitol. Benny Shendo, Jr., secretary of Indian affairs, presented the committee with the department's legislative goals for the 2007 legislative session. Chase Van Gorder, staff attorney, presented the committee with draft legislation for the committee to consider endorsing.

The eighth and final interim meeting of the IAC was held at the State Capitol on December 18; at that time, the committee again considered and voted on initiatives for the 2007 legislative session, including substantive legislation, memorials and appropriations. The committee voted to endorse the following proposals:

Substantive Bills

- Lottery Scholarship Eligibility
- Gross Receipts Tax Exemption - IHS Services
- Indian Arts & Crafts - Certification Mark Program
- Payday Lending
- Eliminate Coal Severance Tax Surtax
- Tribal Infrastructure Act - Legislative Oversight

- Office of Medical Investigator - Fees
- Reburial Grounds
- Lottery Scholarships - Tribal Colleges

Memorials

- Food Gap Task Force

Appropriations

- Native American Emergency Management (\$1,320,000)
- Red Rock State Park (\$5 million)
- Native American Independent Living (\$250,000)
- Internet Training for the Navajo Nation (\$628,000/2 years)
- Navajo Language Program (UNM) (\$277,886)
- Native American Studies Program (UNM) (\$285,000)
- Jemez State Monument (\$2.9 million)
- Native American Voter Coordinators (\$74,000)
- Native American Voter Education (\$150,000)
- International Indigenous Environmental Film Festival (\$250,000)
- Rural Navajo Oral Health Care Plan (\$3 million/5 years)
- Peer to Peer Suicide Prevention (\$100,000)
- Native American Student Mental Health Services (\$500,000)
- Native American Education Outreach (\$225,000).

At the conclusion of its meetings for the 2006 interim, the IAC had heard testimony regarding all of the elements of its work plan as proposed at its initial meeting and approved by the Legislative Council. By conducting its meetings at various pueblos, chapters of the Navajo Nation and the Mescalero Apache Tribe, the IAC has sought to bring the legislative process to locations where the Native American population of the state can observe its proceedings and provide direct input.

2006 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
INDIAN AFFAIRS COMMITTEE

Membership

Rep. James Roger Madalena, Co-chair
Sen. John Pinto, Co-chair
Sen. Rod Adair
Rep. Ray Begaye
Sen. Dianna J. Duran
Rep. Irvin Harrison
Rep. Manuel G. Herrera
Rep. Patricia A. Lundstrom

Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez
Sen. John C. Ryan
Rep. Don L. Tripp
Sen. Leonard Tsosie
Rep. W. C. "Dub" Williams
Rep. Teresa A. Zanetti

Advisory Members

Sen. Ben D. Altamirano
Sen. Joseph J. Carraro
Rep. Ben Lujan
Rep. Fred Luna
Sen. Richard C. Martinez

Rep. Debbie A. Rodella
Rep. Nick L. Salazar
Sen. William E. Sharer
Rep. Gloria C. Vaughn
Rep. Avon W. Wilson

WORK PLAN

The Indian affairs committee has existed since 1989 as a result of post-session New Mexico legislative council action each year. In view of the fact that the committee's work addresses issues relating principally to New Mexico's Native American population, the committee strives to conduct its meetings in locations that are accessible to the state's tribal members and their leaders. The committee views its meetings as an essential way of relating the work of the legislature to this segment of its constituency. This year, in addition to meetings in Santa Fe, Albuquerque and Gallup, the committee plans to meet at the Mescalero Apache Tribe, at four chapters of the Navajo Nation and at six of the pueblos.

A. The Indian affairs committee proposes to explore and discuss the following topics during the 2006 interim:

1. certification of the authenticity of Native American art and handicrafts and enforcement of existing federal and state laws relating to the sale of Native American arts and crafts;
2. capital outlay, including tracking the expenditure of allocated funds, coordination with the Navajo Nation and implementation of the Tribal Infrastructure Act;
3. implementation of the Indian Education Act, the status of the Indian education division of the public education department, teaching Native American languages and cultures, scholarships at tribal colleges and student retention at post-secondary schools;

4. health care in Native American communities, including urban and school-based health clinics and the status of Indian health service facilities and staffing;

5. the relationship among the state, the tribal entities and the federal bureau of Indian affairs regarding the improvement and maintenance of rural roads and rural transportation;

6. providing for the cultural and religious needs of Native Americans incarcerated in New Mexico;

7. regulation of the payday lending industry;

8. civil rights issues affecting Native Americans;

9. tribal involvement in homeland security;

10. off-reservation gaming by tribal entities; and

11. identification requirements for Native American voters.

B. The committee will coordinate, as needed, with other committees regarding presentations of subject matter of common concern.

APPROVED MEETING SCHEDULE

<u>Date</u>	<u>Location</u>
May 24	Santa Fe
July 5-7	Pueblo of Zuni; Gallup; Pinedale Chapter
August 1-3	Pueblo of Laguna; Albuquerque
August 30- September 1	Newcomb, Red Valley and Hogback Chapters
October 2-4	Mescalero
November 1-3	Pueblos of Sandia, Santo Domingo and Cochiti
November 29- December 1	Pueblo of Santa Clara; Santa Fe

Revised: May 22, 2006

**TENTATIVE AGENDA
for the
FIRST MEETING
of the
INDIAN AFFAIRS COMMITTEE**

May 24, 2006
Room 307, State Capitol

Wednesday, May 24

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| 10:00 a.m. | Call to Order |
| 10:05 a.m. | 2006 Legislation — Summary
—Chase Van Gorder, Staff Attorney, Legislative Council Service
—Jennie Lusk, Staff Attorney, Legislative Council Service |
| 11:00 a.m. | Indian Affairs Department — Update
—Benny Shendo, Jr., Secretary of Indian Affairs |
| 12:00 noon | Lunch |
| 1:00 p.m. | Rights of Way in the Checkerboard Area — Status Update
—Patrick Lyons, Commissioner of Public Lands, State Land Office |
| 1:30 p.m. | Public Education Department — Status of Indian Education Division
—Robert Behrendt, Performance Auditor, Legislative Finance Committee
—Veronica Garcia, Secretary of Public Education
—Penny Bird, Assistant Secretary, Public Education Department |
| 2:30 p.m. | Domestic Violence
—Agnes Madonado, Executive Director, New Mexico Coalition Against Domestic Violence |
| 3:00 p.m. | 2006 Interim Work Plan and Meeting Schedule Development
—Chase Van Gorder, Staff Attorney, Legislative Council Service |
| 4:00 p.m. | Adjourn |

MINUTES

of the

**FIRST MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**May 24, 2006
State Capitol, Room 307
Santa Fe**

The first meeting of the Indian Affairs Committee for the 2006 interim was called to order by Senator John Pinto, co-chair, on Wednesday, May 24, 2006, at 10:15 a.m. in Room 307 at the State Capitol in Santa Fe.

Present

Rep. James Roger Madalena, Co-chair
Sen. John Pinto, Co-chair
Sen. Rod Adair
Rep. Ray Begaye
Sen. Dianna J. Duran
Rep. Irvin Harrison
Rep. Manuel G. Herrera
Rep. Patricia A. Lundstrom
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez
Sen. Leonard Tsosie
Rep. Teresa A. Zanetti

Absent

Sen. John C. Ryan
Rep. Don L. Tripp
Rep. W. C. "Dub" Williams

Advisory Members

Sen. Ben D. Altamirano
Sen. Richard C. Martinez
Rep. Nick L. Salazar
Sen. William E. Sharer
Rep. Gloria C. Vaughn

Sen. Joseph J. Carraro
Rep. Ben Lujan
Rep. Fred Luna
Rep. Debbie A. Rodella
Rep. Avon W. Wilson

Staff

Charles H. Van Gorder
Jennie Lusk
Larry Matlock

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Wednesday, May 24

2006 Legislation — Summary

Chase Van Gorder, staff attorney, reviewed the fate of the committee-endorsed proposals for the 2006 legislative session. The committee endorsed five substantive bills, none of which passed both chambers. The committee endorsed appropriation bills for six different purposes, but only bills related to tribal TANF funds were approved by the legislature and the governor. The committee endorsed five memorials and only one house memorial was approved. One significant bill that was not considered by the committee prior to the 2006 legislative session was Senate Bill 579, which concerned capital outlay procedures for chapters of the Navajo Nation. This bill was enacted as Chapter 105. Other capital outlay legislation extended by one year the deadline for capital outlay appropriations scheduled to revert at the end of fiscal year 2006 and provided that general fund capital outlay appropriations would revert to the Tribal Infrastructure Trust Fund. Information was also presented regarding funds appropriated for projects in Indian country, including appropriations that had been vetoed by the governor. There was discussion from committee members regarding capital outlay funds reverting to the Tribal Infrastructure Trust Fund and the manner in which the Tribal Infrastructure Act would be administered. In regard to legislation to be endorsed for the 2007 legislative session, Mr. Van Gorder reminded committee members that committee-endorsed bills may be pre-filed in the senate.

Indian Affairs Department — Status Update

Secretary of Indian Affairs Benny Shendo, Jr., began his presentation with the introduction of new members of the department's staff, including the new general counsel, Stephanie Kiger, and the new deputy secretary, Teresa Gomez, who will start her duties in June. With the addition of the newly authorized staff person to deal with the technical and engineering aspects of capital outlay projects overseen by the department, the Indian Affairs Department will have its full complement of 13 full-time staff members.

Regarding capital outlay issues, Secretary Shendo noted the Indian Affairs Department and the Department of Finance and Administration have drafted proposed rules to implement the provisions of Senate Bill 579, which was enacted in the 2006 legislative session. The draft rules have been sent to the Navajo Nation for review and comment. A response is expected by June 2 and a follow-up meeting is scheduled for July 13. Ms. Kiger reviewed and clarified the provisions of the Tribal Infrastructure Act, which was enacted in the 2005 legislative session.

In 2005, the legislature appropriated \$250,000 to the Indian Affairs Department to address problems related to alleged trespassing by Native American families living in state trust lands in the checkerboard area. The department entered into a memorandum of understanding with the State Land Office, and Commissioner Pat Lyons will be addressing the results of that effort later in the meeting. Five hundred thousand dollars was appropriated from the Tobacco Settlement Fund to the Indian Affairs Department for smoking cessation programs. A request for proposals (RFP) is being drafted for that purpose.

Rebecca Martinez, capital outlay manager, Indian Affairs Department, reported on the status of capital outlay training for tribal entities and on the status of capital outlay projects being administered through the Indian Affairs Department. The department is administering over 620 different projects with \$66.7 million in active projects and \$1.9 million in projects waiting for scopes of work. The tribal communities are increasingly becoming able to handle the requirements for scopes of work for individual projects.

Rights of Way in the Checkerboard Area — Status Update

Commissioner of Public Lands Patrick Lyons reported on the status of efforts to legalize Native American home sites in the checkerboard area that are located on state trust lands. In 2005, the legislature appropriated \$250,000 to be used for the purchase of the rights to have home sites on state trust lands. A survey by the State Land Office revealed 127 home sites in 17 chapters of the Navajo Nation located on state trust lands. An agreement was signed on May 23 between the State Land Office and the Navajo Nation whereby existing grazing leases were amended to include existing home sites. Now that the status of home sites on state trust lands has been confirmed through the amended leases, utility companies will then be able to provide services to these homes. The State Land Office will work to expedite the processing of any necessary right-of-way and easement applications for utilities over state trust lands to home sites on amended leases.

Public Education Department — Status of Indian Education Division

Dr. Robert Behrendt, education performance auditor with the Legislative Finance Committee (LFC), presented the results of his audit of the implementation of the Indian Education Act. The audit found that government-to-government relations between the Public Education Department and the state's 22 tribal entities have been complex and slow as evidenced by the pattern of Indian education expenditures. For example, in fiscal years 2004 through 2006, approximately \$2 million out of a total of approximately \$7 million in funding for Indian education remains unspent. The audit found that the Indian Education Act is vague, overly ambitious and extremely difficult to implement given the following:

- 1) the issues of poverty and low-performing schools require focused programs and resources on a scale that is not supported by the funding formula or the capacity of the Public Education Department;
- 2) research indicates that low achievement of Native American students is largely due to culturally inappropriate content standards, school organization, instruction and testing;
- 3) the Public Education Department's current strategy for developing relevant curricula shifts responsibility to school districts and outside contractors and does not provide a blueprint or technical assistance to school districts;
- 4) the Public Education Department has not developed a strategy and working relationship to increase tribal education department capacity and to coordinate programs;
- 5) research is abundant and the critical elements of a culturally based education provide a blueprint for what schools must do and be held accountable for by the Public Education Department;
- 6) native languages have not been a part of the Public Education Department bilingual program nor have alliance efforts been facilitated between school districts and teacher preparation programs to meet the teacher supply needs for culturally based education; and
- 7) the New Mexico Indian Education Summit held in December 2005 provided a one-day forum for stakeholders but did not result in priorities, targets or action plans.

The audit also referred to House Memorial 3 from the 2005 legislative session, which directed the Public Education Department to analyze means to elevate the status of the Indian Education Division within the department and to report back to the Indian Affairs Committee by October 2005. This deadline was not met, but the task was contracted out to a consulting firm, Richard Nichols and Associates. That report was submitted to the department in April 2006, and contained the following recommendations:

- 1) bring the funds for implementing the Indian Education Act within the department's general budgeting process rather than letting them remain as temporary appropriations;
- 2) assess the impact of having the assistant secretary for Indian education report directly to the secretary of public education;
- 3) consider increasing the funds for staffing and operations of the Indian Education Division;
- 4) provide more information to Indian education stakeholders, such as through a newsletter or tribal consultation meetings; and
- 5) develop a better awareness within the department of the enhanced responsibilities of school districts as a result of the Indian Education Act.

The LFC audit made the following seven major recommendations for improving the implementation of the Indian Education Act:

- 1) develop content standards and tests to include language and cultural competencies relevant to Native American students for purposes of determining adequate yearly progress;
- 2) review the adequacy of at-risk unit values by the Funding Formula Study Task Force to meet the purposes of the Indian Education Act;
- 3) increase the capacity of the Indian Education Division and the Public Education Department to provide technical assistance and interventions to tribal education departments, school districts and schools in implementing culturally based education;
- 4) make tribal education departments eligible for state funding to increase their capacity, involvement and control;
- 5) use the critical elements of the culturally based education model as a blueprint and as a set of accountability measures for implementation of the Indian Education Act;
- 6) develop and disseminate Indian education curricula, holding districts accountable for their use for accreditation purposes; and
- 7) establish an Indian education teacher corps program for accelerated teacher training, professional development and certification in culturally based education.

Dr. Behrendt also observed that there is an inherent conflict among the three major education laws: the federal No Child Left Behind Act, the New Mexico Indian Education Act and the Navajo Sovereignty in Education Act of 2005. The state and tribal laws mandate the teaching of native languages and culture while the federal law looks only at traditional academic performance measures. Therefore, schools with significant Native American enrollment face the additional tasks of teaching native language and culture in addition to subjects required to enable making adequate yearly progress under the federal act.

Assistant Secretary of Public Education Penny Bird responded to the LFC audit on behalf of Secretary of Public Education Veronica Garcia, who was unable to attend the meeting. Assistant Secretary Bird reviewed the accomplishments of the Indian Education Division over the past two-and-a-half years in the following areas: increased communication with tribes and pueblos, teaching Native American languages and culture, increased number of Native American teachers and administrators, assistance provided to school districts and tribes to meet the educational needs of Native American students, Native American language bilingual efforts and culturally appropriate content and instructional strategy workshops that have been conducted. She also announced the completion of the first statewide Indian education annual status report for the 2005-06 school year that will provide baseline information and establish procedures to

collect and maintain education-related data for the state's Native American student population. Assistant Secretary Bird also acknowledged that the corrective action plan responding to the LFC audit is a final document.

Zelda Yazza of Mescalero, a member of the New Mexico Indian Education Advisory Council, read a letter from Council Chair Larry W. Emerson responding to the LFC audit.

Copies of the LFC audit and summary presentation, the responses of the Public Education Department and the Indian Education Advisory Council and the Nichols and Associates report on the status of the Indian Education Division are contained in the meeting file.

During the course of questions and discussion by committee members, Senator Tsosie moved, and Representative Vaughn seconded, a motion that the committee write the secretary of public education to recommend that the person in charge of the Indian Education Division report directly to the secretary of public education rather than to a deputy secretary. The motion passed without objection.

Domestic Violence

Agnes Maldonado, executive director of the New Mexico Coalition Against Domestic Violence (coalition), appeared before the committee to express concerns regarding the appointment of Sandra Gardner as the state's domestic violence czar and recent changes in the procedure for awarding TANF grants to domestic violence programs. Although the coalition has been awarded TANF funds for legal assistance over the past several years, it was decided this year that those funds would be awarded on a competitive RFP basis. The coalition will submit an RFP, but it is concerned that, if it is not awarded funds as it has in the past, many of its offices in counties throughout the state will be forced to close.

2006 Interim Work Plan and Meeting Schedule Development

Mr. Van Gorder presented the committee with a draft work plan for the 2006 interim and a sheet containing ideas for meeting locations and agenda topics. The committee discussed many possibilities and eventually agreed on meeting locations and topics as listed in the attached proposed work plan, including an extra committee meeting in December to enable the committee to have one meeting in the northwest portion of the state.

Following discussion of the work plan, Senator Tsosie moved, and Representative Herrera seconded, a motion that the committee write New Mexico's congressional delegation to advise them that the committee opposes the designation of English as the national language. The motion passed without objection.

Adjournment

There being no further business before the committee, the first meeting of the Indian Affairs Committee for the 2006 interim was adjourned at 5:30 p.m.

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Revised: June 30, 2006

**TENTATIVE AGENDA
for the
SECOND MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**July 5-7, 2006
Pueblo of Zuni, New Mexico
Gallup, New Mexico
Pinedale Chapter, New Mexico**

Wednesday, July 5 — Pueblo of Zuni, Zuni High School

- 10:00 a.m. **Call to Order**
- 10:05 a.m. **Pueblo of Zuni — Welcome and Status Update**
—Arlen P. Quetawki, Sr., Governor
—Carmelita Sanchez, First Lt. Governor
—Ernest Mackel, President, Zuni School Board
- 12:00 noon **Lunch**
- 1:00 p.m. **Regional Transportation Planning**
—Thomas Platero, Director, Department of Transportation, Navajo Nation
—Royce Gchachu, Director, Department of Transportation, Pueblo of Zuni
—Paulson Chaco, Planning and Community Development Director, Ramah Chapter, Navajo Nation
—Mark F. Valenzuela, Director of Governmental Affairs and Legislative Finance Strategy, New Mexico Finance Authority
—Irvin Bekis, Transportation Division Manager, Navajo Regional Office, Bureau of Indian Affairs
—Charles Riley, Acting Regional Transportation Engineer, Southwest Regional Office, Bureau of Indian Affairs
- 3:00 p.m. **State Highway 491 — Status Update**
—Robert Ortiz, Deputy Secretary of Operations, New Mexico Department of Transportation
—Larry Maynard, District Engineer, District 6, New Mexico Department of Transportation
- 4:00 p.m. **Recess**

Thursday, July 6 — University of New Mexico, Gallup Campus (Rooms 205-207, Gurley Hall)

- 9:00 a.m. **Welcome**
—Elizabeth Miller, Executive Director, University of New Mexico, Gallup Campus
—Bob Rosebrough, Mayor, City of Gallup

- 9:30 a.m. **Care 66 — Update**
 —Sanjay Choudhrie, Executive Director
- 10:00 a.m. **Navajo-Gallup Water Supply Project — Status Update**
 —John D'Antonio, State Engineer, and Secretary, Interstate Stream Commission
 —Estevan Lopez, Director, Interstate Stream Commission
 —Ray Benally, Director, Department of Water Resources, Navajo Nation
 —Rege Leach, Bureau of Reclamation, U.S. Department of the Interior
 —Lance Allgood, Executive Director, City of Gallup Joint Utilities District
- 12:00 noon **Lunch**
- 1:00 p.m. **Capital Outlay and the Navajo Nation — Update**
 —Rebecca Martinez, Capital Outlay Manager, Indian Affairs Department
 —Rick Martinez, Deputy Secretary, New Mexico Department of Finance and Administration
 —Robert M. Apodaca, Director, Local Government Division, New Mexico Department of Finance and Administration
 —Casey Begaye, Manager, Capitol Improvement Office, Navajo Nation
- 3:00 p.m. **Tribal Infrastructure Act — Status Update**
 —Teresa Gomez, Deputy Secretary of Indian Affairs
 —Everett Chavez, Member, Tribal Infrastructure Board
- 4:00 p.m. **Native American Arts and Crafts — Certification Mark Program**
 —Bob Siebersma, Executive Director, High Desert Jewelry Producers Association
 —Kathleen O'Dea, Director, Boards and Commissions Division, Regulation and Licensing Department
- 5:00 p.m. **Recess**

Friday, July 7 — Pinedale Chapter, Navajo Nation

- 9:00 a.m. **Pinedale Chapter, Navajo Nation — Welcome and Status Update**
 —Raphael Martin, President
 —Anselm Morgan, Vice President
 —Lawrence T. Morgan, Council Delegate
- 10:00 a.m. **Iyanbito Chapter — Status Update**
 —Karl W. Katenay, President
- 11:00 a.m. **Changes in Medicaid Documentation**
 —Bill Jordan, Deputy Director for Policy, New Mexico Voices for Children
 —James Sandoval, Medicaid Outreach Coordinator, New Mexico Voices for Children
 —Keegan King, State Director, League of Young Voters
 —Representative, Medical Assistant Division, Human Services Department
 —Representative, Income Support Division, Human Services Department
- 12:00 noon **Lunch**
- 1:00 p.m. **Adjourn**

**of the
SECOND MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**July 5-7, 2006
Pueblo of Zuni
Gallup, New Mexico
Pinedale Chapter, Navajo Nation**

The second meeting of the Indian Affairs Committee for the 2006 interim was called to order by Senator John Pinto, co-chair, on Wednesday, July 5, 2006, at 10:43 a.m. at the Zuni High School in the Pueblo of Zuni.

Present

Rep. James Roger Madalena, Co-chair (7/6)
Sen. John Pinto, Co-chair
Sen. Rod Adair
Rep. Ray Begaye
Sen. Dianna J. Duran (7/5)
Rep. Irvin Harrison
Rep. Patricia A. Lundstrom
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez
Sen. John C. Ryan
Rep. Don L. Tripp (7/5-6)
Sen. Leonard Tsosie (7/7)
Rep. Teresa A. Zanetti (7/5-6)

Advisory Members

Sen. Richard C. Martinez
Rep. Gloria C. Vaughn

Absent

Rep. Manuel G. Herrera
Rep. W. C. "Dub" Williams

Sen. Ben D. Altamirano
Sen. Joseph J. Carraro
Rep. Ben Lujan
Rep. Debbie A. Rodella
Rep. Nick L. Salazar
Sen. William E. Sharer

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Charles H. Van Gorder
Mark Bolton

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Wednesday, July 5 - Zuni High School

Arlen P. Quetawki, Sr., governor of the Pueblo of Zuni, welcomed the committee to the pueblo. Following an invocation by Governor Quetawki, members of the committee, the committee staff and the audience introduced themselves.

Pueblo of Zuni — Status Update

Lieutenant Governor Carmelita Sanchez reviewed the history of the Pueblo of Zuni. In 2005, the pueblo had a population of 11,500, of which 1,000 were non-Zunis. The pueblo has had a steady annual growth rate of approximately 2.6 percent since 1970. Approximately 36 percent of the population is age 25 or younger. The pueblo's population growth has resulted in a current need for housing for 800 families. Lieutenant Governor Sanchez also described the pueblo's efforts in the areas of economic development, tourism, the Fort Wingate project, health care and education. Andrew Othole, a planner with the pueblo, discussed the status of capital outlay projects, including the need for a new youth center. Ernest Mackel addressed issues relating to education. The Zuni district was formed in 1980 and now has 1,650 students from pre-kindergarten through twelfth grade. There is a need for an alcohol treatment center that recognizes traditional cultural values. He also noted a shortage of housing for teachers within the district.

In the course of questions and discussion by committee members, Representative Lundstrom moved that the committee write a letter urging that the conversion of Fort Wingate be expedited. The motion was seconded by Representative Harrison and passed without objection. Representative Lundstrom also moved that the committee write a letter to the Public School Capital Outlay Oversight Task Force recommending that funds be provided for teacherage housing. The motion was seconded by Representative Begaye and passed without objection.

Regional Transportation Planning

Issues regarding regional transportation planning were addressed by Mark Maryboy, chair, Transportation and Community Development Committee, Navajo Nation, Tom Platero, director, Department of Transportation, Navajo Nation, Arbin Mitchell, director, Division of Community Development, Navajo Nation, Raphael Martin, chair, Road Committee, Eastern Navajo Agency, Paulson Chaco, planning and community development director, Ramah Chapter, Navajo Nation, Royce Gchachu, director, Department of Transportation, Pueblo of Zuni, Irvin Bekis, transportation division manager, Navajo Regional Office, Bureau of Indian Affairs, and Douglas MacDonald, highway engineer, Southwest Regional Office, Department of Transportation, Bureau of Indian Affairs.

Members of the panel described the general process by which Navajo Nation roads are planned, designed and built and the involvement of the Bureau of Indian Affairs. Specific attention was given to the proposed Navajo Highway 55 and Navajo Highway 125. Highway 55 is planned to run north from the Alamo Chapter of the Navajo Nation, through land belonging to the Pueblo of Laguna, and tie in with old United States Highway 66. Phase 1 consisting of an eight-mile stretch has been completed. Planning for phases 2 and 3, which will bring the road to the Laguna trust land boundary, is underway and has been elevated in priority to be constructed

in 2007. While the entire project will be designed at one time, it is not certain when the entire project will be completed. The panel members commented on how difficult it is to undertake road construction projects on the basis of the annual amounts tribal entities receive through the federal Indian Reservation Roads Program. Given the ongoing increases in road construction costs, the panel members generally agreed that it would be beneficial if limited annual revenue streams could be leveraged through the issuance of bonds, giving the ability to start and complete road construction projects in a timely manner rather than through an annual, piecemeal approach.

Mark F. Valenzuela, director of government affairs, New Mexico Finance Authority (NMFA), gave a presentation regarding the background of the NMFA, including its mission, history and outlook, the fundamentals of debt financing through the issuance of bonds and Governor Richardson's Investment Partnership (GRIP) Program. Following a discussion of bonding programs related to highway projects, Senator Rodriguez moved that representatives of the NMFA be invited to present at the committee's October meeting regarding the feasibility of a bonding program for tribal roads based upon revenue from the federal Indian Reservation Roads Program. The motion was seconded by Representative Tripp and passed without objection.

State Highway 491 — Status Update

Representatives of the Department of Transportation who addressed the committee included Robert Ortiz, deputy secretary of operations, Steve Harris, chief engineer, Ricardo Roybal, project development engineer, Larry Maynard, district engineer, District 6, and Fernando Trujillo, assistant district engineer, District 6.

As of April 1, 2006, all GRIP I projects were underway in either design or construction. Thirty-one projects have been let to contract for a total of \$385 million. Ninety-eight percent of the contractors are from New Mexico. Eighty-four projects have been let for design contracts and 70 projects are being designed in-house at the Department of Transportation. The GRIP I projects have put 1,700 New Mexicans to work. The NMFA has issued \$700 million in bonds, which should be expended by September 2007. A new bond sale will be conducted this coming fall.

The GRIP I project for State Highway 491 (formerly known as State Highway 666) involves a 70-mile stretch of Highway 491 from Tohatchi to Shiprock. The project has been split into two parts: the 37 miles north of Sheep Springs and the portion south of Sheep Springs to Tohatchi. The reason for this split is that the northern portion already has the necessary right-of-way width while the southern part has right-of-way problems and more complicated archaeological issues. The design work for the northern part is 75 percent complete and it should be completed by December of this year. The required environmental documentation has been completed and it is anticipated that the construction contract should be let for bid in October 2007. The time frame for the southern part is up to a year and a half behind that of the northern part. The design for the southern part is 15 percent complete and the design should be completed in a year. It will be six to 12 months before the environmental documents for the southern part are completed. The controlling factors for the timing of the completion of this project are the required environmental documentation and the capacity of the state's highway

construction industry to undertake numerous projects at the same time. The anticipated completion date for the project is 2011 at a total cost of \$151 million. The department is committed to improving Highway 491 though the entire length of the project. Part of the southern portion of the project will include two lanes and the rehabilitation of the existing two-lane highway.

Following the presentations regarding the status of State Highway 491, Senator Pinto recessed the meeting at 3:45 p.m.

Thursday, July 6 - Gallup Campus, University of New Mexico

The second meeting of the Indian Affairs Committee for the 2006 interim was reconvened by Senator Pinto on Thursday, July 6, 2006, at 9:20 a.m. at the Gallup campus of the University of New Mexico.

Welcome

Elizabeth Miller, executive director at the Gallup campus of the University of New Mexico, welcomed the committee to the campus. Established in 1968, the Gallup campus now has 3,000 students, including 400 upper-level students. The school grants only associate degrees but the University of New Mexico has five degree programs on the Gallup campus. Seventy-eight percent of the students are Native American. The campus will soon initiate a new nursing school and there will be a new technology and classroom center.

CARE 66 — Update

Sanjay Choudrie, executive director of CARE 66, gave a presentation to the committee regarding the programs of CARE 66. The organization provides transitional housing for men, and 80 percent of its clients are Native American. CARE 66 is a community economic development housing organization addressing homelessness in McKinley County, the poorest county in New Mexico. It is in the process of building 30 units of low-income housing to be known as Chuska Apartments.

Navajo-Gallup Water Supply Project — Status Update

John D'Antonio, state engineer and secretary of the Interstate Stream Commission, Estevan Lopez, director with the Interstate Stream Commission, Ray Benally, director of the Navajo Nation Department of Water Resources, Rege Leach with the Bureau of Reclamation, United States Department of the Interior, and Lance Allgood, executive director of the City of Gallup Joint Utilities District, participated in a panel discussion regarding the Navajo-Gallup Water Supply Project. The proposed settlement will result in more than 340,000 acre-feet per year of water being allocated to the Navajo Nation and its chapters, and will involve both irrigation and drinking water supply projects. Water diverted from the San Juan River will also serve the City of Gallup and the Jicarilla Apache Nation. The settlement will also provide certainty regarding water allocations to non-Indians. The total cost of the project is estimated at \$720 million in 2005 dollars. Following a discussion by committee members, Senator Rainaldi moved that a letter be written to the state's congressional delegation supporting full funding for the Navajo-Gallup Water Supply Project. The motion was seconded by Senator Rodriguez and

passed without objection. A motion was made by Senator Ryan, seconded by Representative Zanetti, that the committee write a letter to Governor Richardson stating that the Navajo-Gallup Water Supply Project be the number one water project for the upcoming legislative session; the motion passed without objection. Representative Lundstrom moved that the Navajo-Gallup Water Supply Project be included as a part of the presentation by Mr. D'Antonio to the Legislative Finance Committee. The motion was seconded by Senator Pinto and passed without objection.

Capital Outlay and the Navajo Nation — Status Update

Rebecca Martinez, capital outlay manager for the Indian Affairs Department, Rick Martinez, deputy secretary of the Department of Finance and Administration, and Robert Apodaca, director of the Local Government Division of the Department of Finance and Administration, presented to the committee on the status of capital outlay appropriations to the Navajo Nation and its chapters in New Mexico. The Indian Affairs Department is currently handling 620 capital outlay projects, of which 332 involve the Navajo Nation. The department has been working with the Navajo Nation to address problems with the capital outlay process and the number of delinquent projects has been reduced from 111 last December to only five at the present time. The department has an additional full-time employee for capital outlay projects for fiscal year 2007.

Casey Begaye, director of the Navajo Nation Capital Outlay Office, and Arbin Mitchell, director of the Navajo Nation Division of Community Development, addressed the committee from the perspective of the Navajo Nation. The nation has worked with the state to try to address problems in implementing capital outlay projects and the problems are far fewer than they were a year ago. The process for approving projects at the chapter level has been streamlined from 43 steps to six or seven steps. They would like to see the Navajo Nation and the state have one agreed-upon list for capital outlay projects, but the proposed coordination policy was not approved by the Navajo Nation Council. Only the Newcomb Chapter is authorized to deal directly with the state and the Navajo Nation is trying to streamline the certification process so that more chapters will be able to do so. In discussing the impact of Senate Bill 579 (Chapter 105) from the 2006 legislative session, Latonia Becenti of the Navajo Nation Department of Justice indicated that the nation opposed the provisions of the bill calling for direct payment to chapters as imposing on tribal sovereignty and circumventing Navajo Nation laws. Milton Bluehorse, Jr., from the Navajo Nation Office of the President/Vice President, also indicated the administration's opposition to the provisions of Senate Bill 579.

Tribal Infrastructure Act — Status Update

Stephanie Kiger, general counsel for the Indian Affairs Department, and Governor Ernest Chavez and Kathy Newby, members of the Tribal Infrastructure Board, updated the committee on the status of the implementation of the Tribal Infrastructure Act passed during the 2005 legislative session. The board has 13 members, nine of which are voting members. The board had its first meeting on June 8, 2006 and approved bylaws and policies. The board is developing guidelines for projects to be funded; the most important criterion is likely to be project readiness. The board will present to the committee again later in the interim regarding proposed guidelines and projects that have been submitted for funding.

Native American Arts and Crafts — Certification Mark Program

Robert J. Siebersma, executive director of the High Desert Jewelry Producers Association, presented to the committee regarding the importance of tourism to the state's economy and problems related to the import and sale of so-called "Indian" jewelry that in fact is not made by Native Americans. Federal and state laws relating to the authenticity of jewelry sold as being Indian have been ineffective in controlling the sale of counterfeit Native American arts and crafts items. He advised the committee that a new system needs to be devised that would encourage the sale of authentic Native American arts and crafts through the use of a certification mark. Such a certification mark should be controllable, defensible and marketable by the state. Kathleen O'Dea, director of the Boards and Commissions Division of the Regulation and Licensing Department, stated that a certification mark program could augment the existing Indian Arts and Crafts Sales Act and would permit centralized investigation and enforcement.

Following the presentations regarding the certification mark program for Native American arts and crafts, the meeting recessed at 4:45 p.m.

Friday, July 7 - Pinedale Chapter, Navajo Nation

The second meeting of the Indian Affairs Committee for the 2006 interim was reconvened by Senator Pinto on Friday, July 7, 2006, at 9:20 a.m. at the chapter house of the Pinedale Chapter of the Navajo Nation. Raphael Martin, chapter president, gave an invocation, after which members of the committee and the audience introduced themselves.

Pinedale Chapter, Navajo Nation — Status Update

Lawrence Morgan, chapter delegate to the Navajo Nation Council and speaker of the Navajo Nation Council, welcomed the committee to the Pinedale Chapter. Speaker Morgan listed many of the ongoing projects at the chapter, including computer purchases, the head start program and power line extensions. He indicated that the frontage road along Interstate 40, sometimes known as Route 66, needs to be maintained by the state, and the state needs to address problems with the payday lending industry. Sarah Jackson, secretary/treasurer for the chapter, reviewed the chapter demographics, organization, infrastructure, housing, community facilities, social services, public safety, education, economic base, agriculture and comprehensive economic planning efforts. President Martin noted that the Navajo name for the chapter is "To Beehwiisgani," meaning "Dry Around the Well". He also commented on problems with long distance telephone service, road construction and state lands that are without running water. Anselm Morgan expressed opposition to proposed in situ uranium mining. In the course of questions and discussion with committee members, Representative Harrison moved that the committee write a letter to the Regulation and Licensing Department requesting that a hearing be held in the Gallup area regarding proposed rules relating to the sale of alcoholic beverages. The motion was seconded by Representative Lundstrom and passed without opposition.

Iyanbito Chapter, Navajo Nation — Status Update

Louise Mariano, chapter coordinator for the Iyanbito Chapter, stated that the senior center building has had its final inspection and that the dedication is scheduled for July 19. She also noted that scopes of work had been submitted for other pending capital outlay projects.

Changes in Medicaid Documentation

Bill Jordan and James Sandoval of New Mexico Voices for Children and Matt Onstott, acting director of the Medicaid program at the Human Services Department, briefed the committee on new proposed federal rules regarding requirements for proof of citizenship for Medicaid eligibility. These proposed rules could make it much more difficult for Native Americans to establish their eligibility for Medicaid benefits. On a motion by Senator Tsosie, seconded by Representative Begaye, the committee voted without opposition to write a letter to the Federal Centers for Medicare and Medicaid Services opposing the proposed rules as written. The committee also voted without opposition, upon a motion by Senator Tsosie, seconded by Representative Begaye, to write a letter to Governor Richardson requesting that Medicaid benefits for Native American children not be subject to automatic termination.

Adjournment

There being no further business before the committee, the second meeting of the Indian Affairs Committee for the 2006 interim was adjourned at 12:40 p.m.

Revised: July 26, 2006

**TENTATIVE AGENDA
for the
THIRD MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**August 1-3, 2006
Albuquerque, New Mexico
Pueblo of Laguna, New Mexico**

Tuesday, August 1 — Hibben Center, University of New Mexico, Albuquerque

- 10:00 a.m. **Call to Order**
- 10:05 a.m. **University of New Mexico — Status Update**
—Dr. Reed Dasenbrock, Provost/Executive Vice President for Academic Affairs,
University of New Mexico
- 12:00 noon **Lunch**
- 1:00 p.m. **Native American Health Care — UNM Health Sciences Center**
—Dr. Paul Roth, MD, Executive Vice President for UNM Health Sciences Center
and Dean of the School of Medicine
—Dr. Valerie Romero-Leggott, Associate Dean of the School of Medicine and
Associate Professor of the School of Medicine
—Dr. Gail Diné-Chacon, Director of the UNM Center for Native American
Health and Assistant Professor of the School of Medicine
- 2:00 p.m. **Native American Health Care — Department of Health**
—Sam Howarth, Division Director, Office of Policy and Multicultural Affairs,
Department of Health
—Penny Jimerson, Deputy Director, Office of Policy and Multicultural Affairs,
Department of Health
—Harvey Licht, Public Health Division, Department of Health
- 3:00 p.m. **Native American Health Care — Indian Health Service**
—Jim Toya, Director, Albuquerque Area, Indian Health Service
—Patricia Y. Olson, Assistant to the Area Director, Navajo Area, Indian Health
Service
- 4:00 p.m. **Recess**

Wednesday, August 2 — Indian Pueblo Cultural Center, Albuquerque

- 9:30 a.m. **Welcome**
—Dwayne Virgint, Chief Operating Officer, Indian Pueblo Cultural Center
- 10:30 a.m. **Aging and Long-Term Services Department — Status Update**
—Deborah Armstrong, Secretary, Aging and Long-Term Services Department
- 12:00 noon **Lunch**
- 1:00 p.m. **Native American Education Issues**
—Veronica C. Garcia, Secretary of Public Education
—Nancy R. Martine Alonzo, Assistant Secretary for Indian Education
—Dr. Maggie George, Director, Education Equity and Access, Academic Affairs,
Planning and Research Division, Higher Education Department
- 3:00 p.m. **American Indian Education Reform Proposal**
—Norman Ration, National Indian Youth Council, Inc.
—Keith E. Franklin, Albuquerque Metro Native American Coalition
- 4:00 p.m. **Recess**

Thursday, August 3 — Pueblo of Laguna

- 9:00 a.m. **Pueblo of Laguna — Welcome and Status Update**
—Roland E. Johnson, Governor
—Virgil Siow, First Lt. Governor
—Charles Poncho, Second Lt. Governor
- 10:00 a.m. **Domestic Violence Programs — Status Update**
—Dorian Dodson, Secretary, Children, Youth and Families Department
—Sandra Gardner, Domestic Violence Czar
—Agnes Maldonado, Executive Director, Coalition Against Domestic Violence
—Peggy Bird, Coalition to Stop Violence Against Native Women
- 11:00 a.m. **Election Issues**
—Martin Aguilar, Coordinator, Native American Information Program, Bureau of
Elections, Office of the Secretary of State
—Lucille Hooper, Tribal Secretary, Pueblo of Laguna
—Eileen M. Martinez, Clerk, Cibola County (Invited)
- 12:00 noon **Lunch**
- 1:00 p.m. **Adjourn**

MINUTES

**of the
THIRD MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**August 1-3, 2006
Albuquerque, New Mexico
Pueblo of Laguna**

The third meeting of the Indian Affairs Committee for the 2006 interim was called to order by Senator John Pinto, co-chair, on Tuesday, August 1, 2006, at 10:20 a.m. at the Hibben Center at the University of New Mexico in Albuquerque, New Mexico.

Present

Rep. James Roger Madalena, Co-chair (8/1, 8/3)
Sen. John Pinto, Co-chair
Sen. Rod Adair (8/2-3)
Rep. Ray Begaye
Sen. Dianna J. Duran (8/1-2)
Rep. Irvin Harrison (8/1-2)
Rep. Manuel G. Herrera
Rep. Patricia A. Lundstrom (8/2-3)
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez
Sen. John C. Ryan
Sen. Leonard Tsosie
Rep. W. C. "Dub" Williams
Rep. Teresa A. Zanetti

Absent

Rep. Don L. Tripp

Advisory Members

Rep. Ben Lujan, Speaker of the House (8/2)
Sen. Richard C. Martinez (8/2-3)
Rep. Debbie A. Rodella (8/2-3)
Rep. Gloria C. Vaughn

Sen. Ben D. Altamirano, Senate
President Pro Tempore
Sen. Joseph J. Carraro
Rep. Nick L. Salazar
Sen. William E. Sharer

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Charles H. Van Gorder
Jenny Lusk
Larry Matlock

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Tuesday, August 1 — Hibben Center, University of New Mexico (UNM)

University of New Mexico — Status Update

Dr. Reed Dasenbrock, provost and executive vice president for academic affairs at the university, said that the university is doing a better job for its Native American students, although there is more to do. In the past year, the university has reached out to tribal entities to assist their educational efforts. The number of Native American students at the university has doubled over the past 10 years. Pamela Agoyo, special assistant to the president for American Indian affairs, shared plans that the university is undertaking for a new central on-campus facility for Native American students. Dr. Dasenbrock and Ms. Agoyo also reviewed a handout for committee members that shared information and data on the success of American Indian students at the university. In response to questioning and comments from committee members, the panel also discussed the relationship of the university with tribal colleges in New Mexico, scholarship aid for Native American students, efforts being made to assist Native American students overcome gaps in their preparatory education, recruitment and transfers of Native American students, the impact of lottery scholarships and efforts to be culturally sensitive.

Dr. Sherman Wilcox, chair of the Linguistics Department, and Roseann Willink, lecturer in the Navajo/Diné language program, briefed the committee on university programs related to teaching the Navajo language. The Navajo language has been taught at the university for 35 years, but only in 2002 was a minor in Navajo language established. The program has limited resources and only one full-time lecturer. The department's goal is to establish a bachelor of arts degree program in the Navajo language and the establishment of a Navajo language institute. The degree program will require additional recurring funding for a full-time faculty member, an additional lecturer, teaching assistants and staff and work-study aid for students. Several students at the university also expressed their interest in Navajo language courses and support for an expanded degree program. Senator Pinto moved that the committee endorse an appropriation in the amount of \$300,000 during the 2007 legislative session to support an expanded Navajo language program. The motion was seconded by Representative Williams and was passed without opposition. A motion was made by Senator Tsosie and seconded by Senator Rainaldi to write a letter to San Juan College to congratulate it on its achieving a high rate of retention for Native American students. The motion passed without objection.

Native American Health Care — UNM Health Sciences Center

Dr. Paul B. Roth, executive vice president of health sciences and dean of the UNM School of Medicine, briefed the committee on Native American health care at the health sciences center. Dr. Roth explained the role of the health sciences center in New Mexico and pointed out significant health improvement partnerships and initiatives, including the UNM Center for Native American Health, Project Echo (with the Santa Fe and Shiprock Indian Health Service centers), the New Mexico Geriatric Education Center (partner hospice care in the Pueblos of Laguna and Zuni), Research Involving Outpatient Settings (RIOS) Network, Navajo language

interpreter services and UNM Health Sciences Center and Native American health information services at UNM. UNM is working with the All Indian Pueblo Council to fulfill the terms of the lease, including providing inpatient beds. Dr. Roth explained the relationship between the residence of Native American patients and the effect that may have on payment for services rendered. The total number of Native American inpatients in fiscal year 2006 was 2,168 and 47 percent were covered by Medicaid. The total number of Native American outpatients in fiscal year 2006 was 18,264 and 38 percent were covered by Medicaid with approximately 40 percent being covered equally by Medicare, commercial insurance and charity or self-pay. About 19 percent were covered by the Indian Health Service or other payors. Dr. Roth reviewed recent and future efforts to ensure the financial future of the health sciences center to improve access for all New Mexicans, including Native Americans. New initiatives will include a national center for health policy funded by the Robert Wood Johnson Foundation, the reauthorization of the federal Indian Health Care Act and the Center for Native American Health. Discussion by committee members included indigent care, increasing enrollment at the nursing school, treaty obligation, Navajo language interpreters, mental health services and wait time for emergency care. Senator Duran moved that the committee recommend to the New Mexico Legislative Council that Dr. Roth be included on the health care subcommittee being formed. The motion was seconded by Representative Williams and passed without opposition.

Native American Health Care — Indian Health Service

Patricia Y. Olson, assistant to the area director of the Navajo Area of the Indian Health Service (IHS), and Jim Toya, director of the Albuquerque Area of the IHS, addressed the committee regarding services provided by the IHS. Ms. Olson presented a health profile for 2006 for the Navajo Area IHS and specifically commented on new facilities that are in the planning stage, budgetary considerations, health care disparities for Native Americans and leading causes of death among the population served. Ms. Olson noted that it is important for Indian tribes to advocate for increased funding for the IHS, as IHS employees cannot lobby Congress. Mr. Toya presented the committee with information regarding services provided by the Albuquerque Area of the IHS. He explained how critical the funding shortfall is — the IHS is funded at approximately 60 percent of what is needed. One example of the financial problems faced is mandated pay increases for employees that are not included in annual budgets, so those funds are taken out of other programs. Over the past year, there have been two instances where IHS funding has been cut due to the requirements of the Iraq war. There was also a problem with the state requirement that Medicaid recipients must be recertified every six months; Mr. Toya estimated that 50 percent did not get recertified, which resulted in a further loss of funding.

Following the presentations regarding the status of Native American health care, Senator Pinto recessed the meeting at 5:20 p.m.

Wednesday, August 2 — Indian Pueblo Cultural Center

The third meeting of the Indian Affairs Committee for the 2006 interim was reconvened by Senator Pinto on Wednesday, August 2, 2006, at 9:25 a.m. at the Indian Pueblo Cultural Center in Albuquerque.

Welcome

Dwayne Virgint, chief operating officer of the Indian Pueblo Cultural Center, welcomed the committee and noted that the center has served for 30 years as the gateway to the 19 pueblos of New Mexico. The center receives more than 200,000 visitors a year and serves as the home of Koahnic Broadcasting Corporation, producers of Native America Calling and National Native News. Dr. Cynthia Chavez was recently appointed as museum director. She previously worked as a curator at the National Museum of the American Indian in Washington, D.C., and is a member of the Pueblo of San Felipe. Mr. Virgint noted recent upgrades to the facility and repairs and renovations totaling \$4.8 million that will be needed over the next few years.

University of New Mexico — Native Studies Proposal

Dr. Gregory A. Cajete, director of the Native American studies program at UNM, and Peter White, dean of University College, presented a proposal for UNM to institute a master's degree program in Native American studies. Dr. Cajete reviewed the history of Native American Studies (NAS) at UNM: 1970 — NAS founded in 1970 as an ethnic studies center and a support program for Native American students; 1998 — NAS became an interdisciplinary academic program housed in University College; 1999 — minor in Native American studies approved; and 2004 — approval of bachelor of arts program in Native American studies. There are currently two professors in the NAS program, both of whom hold joint appointments with other programs. The proposal is now to initiate a master's degree program in NAS. The cost of this program is estimated at \$285,000 for the first year. The undergraduate major program had the full support of the faculty; that may not be the case with the proposed master's program. Following discussion by committee members, Representative Lundstrom moved that the committee request the Legislative Finance Committee to undertake a study of what portion of UNM's funding is currently used for Native American studies and related services. The motion was seconded and it passed without opposition.

Aging and Long-Term Services Department — Status Update

The panel addressing issues related to the Aging and Long-Term Services Department (ALTSD) included Deputy Secretary Patsy Trujillo, Deputy Secretary Michael Spanier and ALTSD staff members John Aquino, Bernadine Salazar and Ray Espinoza. The department has recently added two positions to work with Mr. Espinoza in the Office of Indian Elder Affairs. The department is also undertaking an increased effort for cultural diversity training to facilitate working with Native American groups and clients. Patrick Lopez, a lawyer working within ALTSD, discussed problems the department is having in working with the Navajo Nation to expend capital outlay appropriations. The panel also discussed the new "Mi Via" Program that will permit participants to have greater choice and control over the types of services and supports that are purchased with the new self-directed Medicaid waiver, with funding designed to reach all eligible individuals. It is expected that 400 participants will be enrolled by the autumn of 2007. The panel also discussed outreach efforts to increase the awareness of Native Americans of programs and services available through the ALTSD. Following a discussion by committee members, Senator Tsosie moved that the committee write to the governor requesting that he designate 2007 as the Year of the Elder. Senator Ryan seconded the motion and it passed without objection.

Native American Education Issues

Dr. Veronica C. Garcia, secretary of public education, Dr. Nancy Martine-Alonzo, assistant secretary for Indian education, Dr. Larry Emerson, chair of the Indian Education Advisory Council, and Dr. Maggie George, director of the Educational Equity and Access Division, Higher Education Department, participated in a panel discussion on Native American education issues. Dr. Garcia started off by introducing Dr. Martine-Alonzo as the new assistant secretary for Indian education. Dr. Martine-Alonzo has a bachelor's in elementary education, a master's in educational administration and a doctorate in educational leadership. She has been a principal and teacher at Pine Hill, was director of Indian education at the Albuquerque Public Schools and an adjunct teacher at Dine College. Dr. Garcia announced a six-month rollout for leadership in Indian education with an initial focus on the internal operations of the Public Education Department. She indicated that a priority is to integrate the Indian Education Act across all affected agencies. Dr. Garcia responded to the suggestion that the assistant secretary for Indian education be elevated to the level of deputy secretary by stating that Dr. Martine-Alonzo will report to the deputy secretary rather than to Dr. Garcia for the time being, but Dr. Garcia will re-evaluate the structure in a year. Finally, she noted that the department is receiving somewhat conflicting messages from different legislative entities, including the Legislative Finance Committee, the Legislative Education Study Committee and the Indian Affairs Committee, and suggested formation of a subcommittee of the Indian Affairs Committee, Legislative Finance Committee and Legislative Education Study Committee members to review needed changes in the Indian Education Act.

Assistant Secretary Martine-Alonzo introduced several people in attendance who are involved in Indian education. She reviewed written materials presented to the committee concerning the Indian Education Division of the Public Education Department, including the level of funding, the department's response to the report by Richard Nichols and Associates on the status of the Indian Education Division, a status report on the implementation of the Indian Education Act and the department's supplemental response to the audit conducted by the Legislative Finance Committee. Dr. Emerson outlined the plans and activities of the Indian Education Advisory Council for the coming year. He outlined the immediate tasks of the council, the recommended schedule of events through April 2007, a draft listing of the council's values and beliefs, including challenges and barriers, and a summary of the council's 2006 action plan goals. One of the council's concerns is that Native American language and culture are being marginalized in the educational system. Dr. George addressed the Indian Education Act as it relates to higher education. Funds provided pursuant to the act for teacher training and development have been funneled through the Public Education Department and not through the Higher Education Department. An appropriation of \$900,000 over three years was made to UNM to improve retention rates for Native American students, increase the number of Native American teachers, revitalize Native American languages and better train teachers who work with Native American students. Dr. George also discussed funding that has been made available to New Mexico Highlands University and to New Mexico State University. The panel concluded its presentation with Dr. Garcia commenting on allegations regarding alleged civil rights violations in the Gallup-McKinley County Public Schools.

Representative Lundstrom suggested having the Indian Education Advisory Council, chaired by Dr. Emerson, hear some complaints in order to avoid involvement of the Equal Employment Opportunity Commission. Representative Begaye requested a complete assessment of what Indian education programs are available in various New Mexico areas and suggested moving from a grant-based, single-shot approach to a more systematic approach for improvements for Native American students. Following extensive comments and questioning by committee members on a variety of subjects related to the education of Native Americans, Representative Begaye moved that the committee write a letter to the co-chairs of the Legislative Council requesting that a subcommittee be appointed, consisting of members of the Legislative Finance Committee, the Legislative Education Study Committee and the Indian Affairs Committee, to discuss and make recommendations regarding the implementation of the Indian Education Act. The motion was seconded by Representative Lundstrom and passed without objection.

American Indian Education Reform Proposal

Norman Ration and Keith Franklin presented to the committee regarding a Native American education reform proposal that they have been working on. Their concern stems in part from the plight of Native American children living off-reservation in urban areas such as Albuquerque. The report includes statistical information regarding Native American student populations and academic progress. They hope to be able to present a reform package to the legislature for consideration during the 2007 legislative session.

Following the presentations regarding Native American education issues, Senator Pinto recessed the meeting at 4:35 p.m.

Thursday, August 3 — Pueblo of Laguna

The third meeting of the Indian Affairs Committee for the 2006 interim was reconvened by Senator Pinto on Wednesday, August 2, 2006, at 9:10 a.m. at the tribal offices of the Pueblo of Laguna. Representative Zanetti was asked to chair the meeting.

Pueblo of Laguna — Status Update

Roland Johnson, governor of the Pueblo of Laguna, welcomed the committee to the pueblo. The pueblo encompasses 560,000 acres over four counties. There are 8,027 members of the pueblo, of which 4,500 reside in six separate communities. The pueblo adopted a constitution in 1906, and the pueblo is run by a tribal council, including three members elected from each community. In 1952, the pueblo signed an agreement with Anaconda for the development of a uranium mine. The mine, the largest open pit mine in the world, operated for 35 years and was the primary source of employment. The mine shut down in 1982, and the pueblo developed its own manufacturing company, Laguna Industries. Laguna Construction Company was started in an effort to reclaim the mining site. The Laguna Development Corporation was started in 1998, and it presently operates three casinos, two convenience stores and a processing plant. There is also the Laguna Rainbow Corporation, which operates a 54-bed residential nursing facility; the Laguna Utility Authority; and the Laguna Housing Development and Management Enterprise. Issues facing the pueblo now include state taxes on retail sales, the

cost of emergency services for travelers on Interstate 40, joint powers agreements for public safety issues, homeland security, procedures for expending capital outlay appropriations, renegotiation of the gaming compact with the state and road improvements.

Domestic Violence Programs — Status Update

Dorian Dodson, secretary of children, youth and families, updated the committee on Native American domestic violence services provided through the department. The total budget for domestic violence-related programs increased by almost one-third from \$9.5 million for fiscal year 2006 to \$12.5 million for fiscal year 2007; \$200,000 remains to be awarded for fiscal year 2007. Domestic violence program funding serving Native Americans increased from \$830,527 in fiscal year 2005 to \$1,335,824 in fiscal year 2007. Secretary Dodson explained how TANF (Temporary Assistance for Needy Families) funds were distributed for domestic violence programs and how Native American entities were included in the process. She also discussed domestic violence performance measures that would be used by the department in the future.

Sandra Gardner, the state domestic violence coordinator, reviewed with the committee statistics related to the frequency and types of domestic abuse occurring in New Mexico. She also commented upon how important cross-deputization is for the enforcement of protection orders. Agnes Maldonado, executive director of the New Mexico Coalition Against Domestic Violence, reviewed the services provided by coalition members and their sources of funding. She expressed concern with the number of programs, including the coalition, that have not gotten funding from the state for fiscal year 2007 programming and services. Programs serving rural areas have been particularly hard hit by reduced funding from the state. Peggy Bird, a member of the Council of Peace of the Coalition to Stop Violence Against Native Women, briefed the committee on the nature of the organization and its objectives. This coalition focuses on Native American women and seeks to address the domestic violence issue using traditional approaches and with cultural sensitivity. She expressed concern with the way in which the Children, Youth and Families Department has been handling funding for domestic violence programs serving Native Americans and expressed a preference for appropriating those funds through the Indian Affairs Department.

Election Issues

Election issues were addressed by a panel that included Martin Aguilar, coordinator of the Native American information program with the Bureau of Elections of the Office of the Secretary of State, Lucille Hooper, tribal secretary of the Pueblo of Laguna, Cyndie Arrossa, Cibola County chief deputy clerk, Adrianne Lucio, Cibola County election clerk, and George Trujillo, Cibola County election coordinator. Mr. Aguilar reviewed the voting records for the 2006 primary election with emphasis on precincts with a significant Native American population. The average voter turnout statewide was 22 percent; the tribal turnout was slightly more than that at 25 percent (48,527 voters). The tribal turnout in McKinley County was particularly high, in part, because there were 18 Native American candidates on the ballot. Ms. Hooper reviewed the problems that the pueblo had with the county clerk's office in the 2004 general election, including irregularities in the voter registration list, inadequate poll worker training and inadequate instructions on the use of provisional ballots. The pueblo had convened the Laguna Voter Project Team and progress had been made with the county on these issues.

Issues that still need to be worked on include the use of physical versus mailing addresses on voter registration forms, precinct boundary lines not being the same as village boundary lines, poll worker compensation, paper ballot training and inadequate funding by the county of the County Clerk's Office. Representatives from the Cibola County Clerk's Office addressed the steps that the office had taken and are taking to address the concerns of the pueblo.

Adjournment

There being no further business before the committee, the third meeting of the Indian Affairs Committee for the 2006 interim was adjourned at 2:10 p.m.

Revised: August 28, 2006

**TENTATIVE AGENDA
for the
FOURTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**August 30 - September 1, 2006
Newcomb Chapter, Navajo Nation
Red Valley Chapter, Navajo Nation
Hogback Chapter, Navajo Nation**

Wednesday, August 30 — Chapter House, Newcomb Chapter, Navajo Nation

10:00 a.m. **Call to Order**

10:05 a.m. **Newcomb Chapter, Navajo Nation — Welcome and Status Update**
—Thomas Joe Yazzie, President
—Willamena Smith, Vice President
—Edward V. Jim, Sr., Council Delegate

11:00 a.m. **Certification of Navajo Nation Chapters**
—Herb Clah, Director, Shiprock Local Government Support Center
—Ryan Claw, Auditor General, Navajo Nation
—Mark Maryboy, Chair, Transportation and Community Development
Committee, Navajo Nation Council (Invited)

12:00 noon **Lunch**

1:00 p.m. **Desert Rock Power Plant — Status Update**
—Freddy Sanches, Vice President, Sithe Global Power, LLC

2:30 p.m. **Central Consolidated School District — Status Update**
—Representatives, Central Consolidated School District

—Larry Emerson, Chair, Indian Education Advisory Committee

3:30 p.m. **Navajo Language Academy**
—Ellevina Perkins, Chair
—Irene Silentman, Committee Member

4:00 p.m. **Recess**

Thursday, August 31 — Chapter House, Red Valley Chapter, Navajo Nation

- 9:00 a.m. **Red Valley Chapter, Navajo Nation — Welcome and Status Update**
—Phillip Harrison, Jr., President
—Ella Frazier, Vice President
—Willie W. Johnson, Sr., Council Delegate
- 10:30 a.m. **Rural Roads on the Navajo Nation — Status Update**
—Larry Maynard, District Engineer, District 6, Department of Transportation
—John McElroy, District Engineer, District 5, Department of Transportation
—Tom Platero, Director, Navajo Nation Department of Transportation (Invited)
—Irvin Bekis, Manager, Navajo Region Office, BIA Department of Transportation (Invited)
- 12:00 noon **Lunch**
- 1:00 p.m. **Borderline Chapters of the Navajo Nation**
—Lorraine Wauneka-Nelson, President, Fort Defiance Chapter, Navajo Nation
—Anselm Bitsoi, President, Mexican Springs Chapter, Navajo Nation
—Phillip Harrison, Jr., President, Red Valley Chapter, Navajo Nation
—Rodger D. Joe, President, Teecnospos Chapter, Navajo Nation (Invited)
—Stanley Yazzie, Division Deputy Director, Division of Community Development, Navajo Nation
- 2:30 p.m. **Tribal Infrastructure Fund**
—Everett Chavez, Member, Tribal Infrastructure Board
—Teresa C. Gomez, Deputy Secretary of Indian Affairs
- 4:00 p.m. **Recess**

Friday, September 1 — Chapter House, Hogback Chapter, Navajo Nation

- 9:00 a.m. **Hogback Chapter, Navajo Nation — Welcome and Status Update**
—Charlie Jones, Jr., President
—Frankie Funston, Vice President
—Ervin M. Keeswood, Sr., Council Delegate
- 10:00 a.m. **Civil Rights Issues — Farmington**
—Sampson Cowboy, Division Director, Public Safety Division, Navajo Nation
—Jim Benally, Chief of Police, Navajo Nation
—Bob Melton, Sheriff, San Juan County
—Duane H. Yazzie, President, Shiprock Chapter, Navajo Nation (Invited)
- 12:00 noon **Lunch**
- 1:00 p.m. **Adjourn**

**MINUTES
of the**

**FOURTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**August 30 - September 1, 2006
Newcomb Chapter, Navajo Nation
Red Valley Chapter, Navajo Nation
Hogback Chapter, Navajo Nation**

The fourth meeting of the Indian Affairs Committee for the 2006 interim was called to order by Senator John Pinto, co-chair, on Wednesday, August 30, 2006, at 10:32 a.m. at the Chapter House of the Newcomb Chapter, Navajo Nation. Senator Pinto asked Representative Ray Begaye to chair the meeting.

Present

Rep. James Roger Madalena, Co-chair (8/31)
Sen. John Pinto, Co-chair (8/30, 9/1)
Sen. Rod Adair (8/31, 9/1)
Rep. Ray Begaye
Sen. Dianna J. Duran (8/30, 8/31)
Rep. Irvin Harrison (9/1)
Rep. Manuel G. Herrera
Rep. Patricia A. Lundstrom (9/1)
Sen. Nancy Rodriguez
Sen. John C. Ryan (8/31, 9/1)
Sen. Leonard Tsosie

Advisory Members

Rep. Nick L. Salazar (8/31, 9/1)
Rep. Gloria C. Vaughn

Absent

Sen. Lidio G. Rainaldi
Rep. Don L. Tripp
Rep. W. C. "Dub" Williams
Rep. Teresa A. Zanetti

Sen. Ben D. Altamirano
Sen. Joseph J. Carraro
Rep. Ben Lujan
Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Sen. William E. Sharer

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Charles H. Van Gorder
Larry Matlock

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Wednesday, August 30 - Newcomb Chapter

Newcomb Chapter — Status Update

Thomas Joe Yazzie, president of the Newcomb Chapter, welcomed the committee to the chapter. The chapter is located off State Highway 491 between Shiprock and Gallup. One convenience store is located three miles to the north; the Newcomb Trading Post burned down four or five years ago. The chapter has a 16-mile service radius and includes approximately 1,500 registered voters; about 100 students graduate from high school each year. President Yazzie gave some history of the chapter and the surrounding chapters. In 1982, the Newcomb Chapter became the 109th chapter of the Navajo Nation. The chapter was certified by the Navajo Nation on June 18, 2004 under the Local Governance Act. On March 29, 2006, the chapter signed a joint powers agreement with New Mexico. These developments have opened the doors for unlimited accomplishments, and the chapter is on its way to growth and development.

Willamena Smith, vice president of the chapter, described the work that was done by chapter officials to have the chapter certified under the Navajo Nation Local Governance Act. She spoke about the current needs of the community. Fifty percent of the population live in inadequate housing with no running water or electricity. All of the roads are gravel, which can be a problem in bad weather. The community would like to have its own convenience store. It also needs a clinic as the health care facilities in Shiprock, Farmington and Gallup are far away. Raymond Tsosie, chapter manager, described his view of the chapter certification process and what is involved in spending capital outlay funds appropriated by the state, including recent expenditures. The certification has brought autonomy at the local level and empowers the citizens of the chapter.

In the course of questions and comments by committee members, Representative Vaughn moved that the committee write a letter to Secretary of Transportation Rhonda Faught expressing support for improvements for State Highway 491. The motion was seconded by Senator Tsosie and passed without objection.

Certification of Navajo Nation Chapters

Herbert Clah, director of the Shiprock Local Government Support Center of the Navajo Nation, gave a brief overview of Title 26 of the Navajo Nation Code (Local Governance Act), gave a PowerPoint presentation of the history of that law and reviewed the steps that chapters must take to become certified. Since 1998, only five chapters of the Navajo Nation have been certified pursuant to the Local Governance Act (LGA). The only chapter in New Mexico to have been certified is the Newcomb Chapter. The Hogback and San Juan chapters have pursued certification and are in the final stages of the process. Ryan Claw, auditor general of the Navajo Nation, also reviewed the provisions of the LGA and the involvement of his office in the certification process. He mentioned that the Baca/Prewitt and Crownpoint chapters have started the certification process but their applications were incomplete. Reasons for the lack of applications from other chapters may include lack of interest, insufficient staff at the chapter level and insufficient training to learn the process. Committee members had questions and comments regarding the certification process and the role that Senate Bill 579 (Chapter 105) from the 2005 legislative session could have in making capital outlay money available to chapters.

Desert Rock Power Plant — Status Update

Freddy Sanches, vice president, and Nathan Plagens, director of project development of Sithe Global Power, LLC, and Steven C. Begaye, general manager of Diné Power Authority, briefed the committee on the status of the proposed Desert Rock Power Plant. They gave an overview of both Sithe Global and the Diné Power Authority and explained the relationship between the two entities. The proposed plant will be a 1,500 megawatt-generating plant located in the area of the Nenahnezad and Burnham chapters and will be fueled by coal from the nearby BHP coal mine. The estimated cost of the plant is \$2.8 billion with construction expected to begin in 2007. The Navajo Nation has already approved a water agreement and a lease agreement. A draft air permit was issued by the EPA in July, and the EPA is expected to issue a draft environmental impact statement in October 2006. All required permits are expected to be issued by March 2007. Mr. Sanches reviewed the anticipated economic benefits from the Desert Rock project in the areas of employment opportunities, tax revenues, improved infrastructure, economic growth and additional economic development; Sithe Global has proposed payments in lieu of taxes to San Juan County. Mr. Sanches also reviewed benefits specifically accruing to the Navajo Nation, and Mr. Plagens reviewed community outreach efforts to the Navajo Nation. Mr. Sanches also reviewed aspects of the anticipated environmental impact of the proposed power plant. In order for the power generated by the proposed plant to be at competitive prices, Sithe Global will need tax abatement agreements with the Navajo Nation and the state. Sithe Global has proposed a plan to be submitted to the legislature that will provide tax abatements capped at \$85 million. Harrilene Yazzie, NEPA coordinator with the Navajo Regional Office of the Bureau of Indian Affairs (BIA), discussed the process to be followed in the preparation of an environmental impact statement, including public meetings on the Navajo Nation. A representative of Diné CARE expressed her opposition to the project.

Following presentations by panel members, questions and comments by committee members addressed numerous areas of interest, including the anticipated rate of return by Sithe Global and other investors, wells and impact on ground water, transmission and sale of the power to be generated by the proposed plant, financing requirements, employee hiring practices and joint ownership with the Navajo Nation.

Central Consolidated School District — Status Update

A panel consisting of Larry Emerson, Hoskie Benally, Shirley Lowe, Janet Slowman Chee and Rozana Lopez was present to brief the committee on the status of efforts to resolve a dispute between Navajo Nation community members and the Central Consolidated School District. A committee mediation team has been formed to address the 18 issues that have been identified. The initial meetings were aimed at fostering a working dialog and to minimize the antagonism that had been building up. The team has developed four recommendations for the future: 1) develop a 20-year Navajo language and cultural restoration plan; 2) clarify the role of and coordination between the Indian Education Division of the Public Education Department and the Navajo Nation Department of Education; 3) further study the 18 issues identified that need resolution; and 4) study the impact and interaction between the Indian Education Act and Navajo Education Act. The panel discussed the principles underlying the 18 issues identified by the Navajo Nation Education Advisory Committee. The panel also discussed various funding sources for education efforts and how those funds are being used to teach the Navajo language and culture. The potential of splitting the school district was also discussed.

Navajo Language Academy

Ellevina Perkins and Irene Silentman from the Native Language Academy asked the committee to support an appropriations request in the amount of \$177,325 to fund the Living the Navajo Language into the Future Program of the academy. That program would include supporting the academy's training program in Rehoboth, New Mexico, for Navajo language teachers and linguists. They also presented statistics illustrating how the number of Navajo-speaking people have diminished over recent years, especially among school children. In 1969, a study showed that 95% of Navajo six-year olds spoke only Navajo; more recent studies indicate that at the present time, 95% of Navajo six-year olds speak only English. There is fear that the Navajo language will die out in only a few more generations.

Following the presentations regarding the Navajo Language Academy, Representative Begaye recessed the meeting at 5:45 p.m.

Thursday, August 31 - Red Valley Chapter

The fourth meeting of the Indian Affairs Committee for the 2006 interim was called back into session by Senator Pinto on Thursday, August 31, 2006, at 9:50 a.m. at the chapter house of the Red Valley Chapter, Navajo Nation.

Red Valley Chapter — Status Update

Phillip Harrison, Jr., president of the Red Valley Chapter, welcomed the committee to the chapter. The chapter used to be known as Red Rock, but the name was changed because there is another Red Rock near Gallup. The chapter's population is about 5,000 with 1,000 voters, and the chapter is located in both New Mexico and Arizona. The chapter receives little financial support from Arizona, and it is grateful for the capital outlay appropriations received from New Mexico. The chapter needs a new chapter house, and the residents need power line extensions and improvements to their housing. The chapter's senior citizens need a group home. The chapter gives scholarships to its students attending college. The chapter is losing members due to health problems resulting from work in the uranium mines; there is a shortage of grandfathers. While Congress passed laws giving compensation to Navajo uranium workers and their families, only about 10% of Navajo claimants have been paid. President Harrison thanked the committee for sponsoring a memorial on that subject. Old uranium mines still remain open and ground water is being contaminated. Helena Benally, community services coordinator, updated the committee on the status of the power line extension project that is funded through capital outlay dollars.

Rural Roads on the Navajo Nation — Status Update

Larry Maynard, district engineer for District 6 of the Department of Transportation, enlightened the committee on the funding problems facing highway maintenance in District 6. Over the past seven years, fuel costs have increased from 125% to 200%, the cost of equipment maintenance and repair has increased 125% due to higher steel costs and federal emission standards and contract highway maintenance has increased 12%. This year District 6 has incurred \$200,000 in expenses related to flood damage. Notwithstanding these cost increases, the district's budget has not significantly increased. Mr. Maynard stated that the highway project

for Highway 491 from Tohatchi to Shiprock is alive and well. The involved government agencies are working on finalizing construction plans and acquiring necessary easements for the highway expansion. The northern portion should have finalized plans by November 2006 and the southern portion by April 2007. Construction timing is dependent upon completion of easement negotiations and the overall highway construction budgetary cash flow. The Department of Transportation has a new tribal liaison, and work is being done to change state roads into tribal roads in order to maintain or increase funding under the federal Indian Reservation Roads Program. John McElroy, district engineer for District 5 of the Department of Transportation, reviewed the projects in San Juan County that are part of the Statewide Transportation System Improvement Program (STIP). These projects include work on U.S. 64 from Farmington to Bloomfield and U.S. 491 from Shiprock to the Utah state line. He also noted that damage to a bridge on state Route 170 due to flooding on July 8 will cost an unbudgeted \$750,000 for emergency repairs. Tom Platero, director of the Navajo Nation Department of Transportation, expressed appreciation to the committee for the state's support of joint state-tribal highway maintenance yards. Mr. Platero reviewed the funding of his department — \$3.5 million from the BIA to cover the entire reservation. The department recently quadrupled its staff for rural road maintenance and is working on agreements with the state and counties regarding maintenance of tribal roads. The department may be taking over responsibility for the maintenance of BIA roads on the reservation. Mr. Platero also explained efforts being taken to ensure the Navajo Nation does not receive reduced funding through the federal Indian Reservation Roads Program. It was noted that with the funding shortage, the 2003 long-range transportation plan will take 445 years to complete at current funding levels. The Navajo Nation fuel excise tax will provide \$9 million to accommodate requests totaling \$86 million. He reviewed the suggested projects that are to be included in the proposed GRIP 2 program. Questioning and comments by committee members focused on the status of scheduled improvements to U.S. Highway 491 and other various highways in Districts 5 and 6. In the course of discussion, Senator Tsosie moved that the committee write a letter to the BIA expressing its disappointment that a BIA representative did not participate in this meeting. The motion was seconded by Representative Vaughn and was approved without opposition.

Borderline Chapters of the Navajo Nation

Kurt Arviso, community services coordinator for the Fort Defiance Chapter of the Navajo Nation, presented to the committee. The Fort Defiance Chapter lies mainly in Arizona but does receive capital outlay appropriations. One concern is that the chapter has been advised that heavy equipment purchased with funds received from New Mexico may be used and stored only within New Mexico. This is a problem because the chapter's compound is in Arizona and it costs extra for security if the equipment is stored in New Mexico away from the compound. The chapter is in need of additional heavy equipment and a building for its Head Start Program. The chapter is moving toward certification pursuant to the Local Governance Act, but it foresees a problem with payments being made only on a reimbursement basis; the chapter does not have the financial resources to front the money for large projects. The chapter is also concerned about future plans for the coal mine that will be closing in the foreseeable future.

Ralph Atcitty of the Teec Nos Pos Chapter of the Navajo Nation noted that his chapter is unique in that it is located in three states, New Mexico, Arizona and Utah, and includes the Four Corners Monument. The chapter has 1,323 members according to the 2000 census. The chapter

has a BIA boarding school that serves 250 students and a very active program for the more than 350 chapter elders. It is anticipated that a new IHS facility will open up just west of the community in December 2006. The chapter will be seeking financial assistance for a solid waste transfer station to be located on the Arizona state line that will serve both the Teec Nos Pos and the Beclahbito chapters and for home improvements for chapter members living in New Mexico.

Tribal Infrastructure Fund

Everett Chavez, member of the Tribal Infrastructure Board, reviewed the provisions of the Tribal Infrastructure Act and the role of the Tribal Infrastructure Board. He gave a chronology of the actions of the board, including formal adoption of the bylaws and guidelines that were previously provided to the committee. The board is developing guidelines for reviewing and approving applications for the \$5 million that was appropriated to the Tribal Infrastructure Project Fund during the 2006 legislative session. Some applications have already been received and the Indian Affairs Department recently sent out an announcement requesting proposals. He expressed the need for a funding source beyond the \$5 million legislative appropriation as the need greatly exceeds those funds. Mr. Chavez reviewed the projects that had been funded with \$3 million appropriated in the 2005 legislative session, which decisions had been made prior to appointment of the board, and the application that had already been received for part of the pending \$5 million appropriation. Rebecca Martinez, capital outlay manager for the Indian Affairs Department, discussed the educational outreach efforts of the department and technical issues regarding how the tribal infrastructure project funds might be used. There was extensive discussion between committee members and the panel regarding the process to be used for decisions on how to allocate funds, leveraging of funds, legislative oversight of funding decisions, the process used for allocating the \$3 million appropriation in 2005, tribal gaming revenues and long-term funding of tribal infrastructure needs.

Following the presentation regarding the Tribal Infrastructure Fund, Representative Begaye recessed the meeting at 4:15 p.m.

Friday, September 1 - Hogback Chapter, Navajo Nation

The fourth meeting of the Indian Affairs Committee for the 2006 interim was called back into session by Senator Pinto on Friday, September 1, 2006, at 9:35 a.m. at the chapter house of the Hogback Chapter, Navajo Nation.

Hogback Chapter, Navajo Nation — Status Update

Charlie Jones, Jr., president, and Anita Hayes, community services coordinator for the Hogback Chapter, welcomed the committee to the chapter. Ms. Hayes described the efforts the chapter has made to implement the \$500,000 capital outlay appropriation for a power line extension to serve families without electricity. The chapter is working hard to get certified pursuant to the Local Governance Act, following the lead of the Newcomb Chapter. During the discussion by committee members, Representative Lundstrom moved that the committee write letters to power distribution entities in the area requesting information on plans to service areas that are not currently served. The motion was seconded by Representative Vaughn and passed without objection.

Civil Rights Issues — Farmington

In view of recent events in the Farmington area, the committee requested that a panel of involved persons brief the committee on recent events concerning alleged civil rights violations. The panel included Chili Yazzie, president of the Shiprock Chapter of the Navajo Nation, and Bob Melton, San Juan County sheriff. Representatives of Farmington were invited to attend, but Mayor William E. Standley had written the committee to apologize for being unable to attend due to a prior commitment out of town. Mayor Standley provided the committee with a brief status report on civil rights issues and racial tensions in the Farmington area.

President Yazzie provided the committee with a lengthy and detailed history of long-standing racial tensions and civil rights problems in the Farmington area. These problems existed in the 1960s and reached a peak in the 1970s with instances of "Indian rolling" and the murder of three Navajos in 1974. The Navajo community rose up in protest on that occasion and marched on the City of Farmington, resulting in 15 Navajos being arrested and 34 Navajos being charged with various crimes. The Navajo community also organized an economic boycott of businesses in Farmington. Under the auspices of the U.S. Civil Rights Commission and the state, the city made an effort to recognize and deal with racial and civil rights issues and substantial progress was made in these areas. Then, in June of this year, there was a re-occurrence of Indian rolling involving three young Anglo men who were subsequently charged with a hate crime. Shortly after that incident, a Navajo man, Clint Black, was shot to death by a Farmington police officer in the course of a domestic dispute in a business parking lot. A subsequent investigation by the San Juan County Sheriff's Office concluded that the Farmington police officer had done nothing wrong in that incident. These recent occurrences have once again heightened racial tensions in the area, and the Navajo community has organized a walk to be conducted tomorrow, September 2, in memory of people killed or missing due to racial violence. Both the City of Farmington and the San Juan County Sheriff's Office have been cooperative and have worked together with the Navajo community in planning for this event.

Sheriff Melton addressed the concerns expressed by President Yazzie so far as they related to the Sheriff's Office. His office strives to ensure that efforts are made to uphold the law without regard to race and to endorse a spirit of diversity. He has made it clear that his office will not tolerate bias-based profiling. Sheriff Melton reviewed efforts that his office is making to ease racial tension and prevent civil rights violations, including efforts in the areas of employment, ongoing training, police actions, crime statistics, video equipment and complaint investigation guidelines.

Questions and comments by committee members included efforts made by the City of Farmington to ease racial tensions, law enforcement employment statistics, crime statistics by race, the investigation of the Clint Black case, the use of tasers, the establishment of a civil rights division in the Office of the Attorney General, the planned memorial walk and the city's response to a demonstration that was rumored to be planned for the 4th of July. In the course of the discussion, Representative Begaye moved that the committee write a letter to federal authorities requesting further investigation of the Clint Black incident and to the New Mexico Commission on Human Rights. Representative Harrison seconded the motion and it passed without objection.

In closing, President Yazzie made the following recommendations: investigate the San

Juan County Sheriff Office's relationship to Farmington Police Department regarding civil rights policy and procedures; develop a system of checks and balances to be used in the investigation process to prevent the "good ol' boys investigating the good ol' boys" syndrome; provide for more Native American employees; critique the City of Farmington's diversity practices; create a civil rights division within the District Attorney's Office along with Native American attorneys; study race relations within the state of New Mexico; involve the Indian Affairs Department in aggressively protecting Native Americans' civil rights in Farmington; and critique The Farmington Report: Civil Rights for Native Americans 30 Years Later.

Adjournment

There being no further business before the committee, the fourth meeting of the Indian Affairs Committee for the 2006 interim was adjourned at 1:40 p.m.

Revised: September 29, 2006

**TENTATIVE AGENDA
for the
FIFTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

October 2-4, 2006
Mescalero, New Mexico

Monday, October 2 — Inn of the Mountain Gods, Mescalero

10:00 a.m. **Call to Order**

10:05 a.m. **Mescalero Apache Tribe — Welcome and Status Update**
—Mark Chino, President
—Ferris Palmer, Sr., Vice President

12:00 noon **Lunch**

1:00 p.m. **Department of Health — Update**
 —Michelle Lujan Grisham, Secretary of Health
 —San Howarth, Division Director, Office of Policy and Multicultural Affairs,
 Department of Health

3:00 p.m. **Access to Healthy Foods**
 —Pam Roy, Coordinator, New Mexico Food and Agriculture Policy Council
 —Craig Mapel, Marketing Specialist, New Mexico Department of Agriculture

4:00 p.m. **Recess**

Tuesday, October 3 — Inn of the Mountain Gods, Mescalero

9:00 a.m. **Indian Reservation Roads Bonding Program — Update**
 —Mark F. Valenzuela, Director of Governmental Affairs and Legislative Finance
 Strategy, New Mexico Finance Authority
 —Paul Cassidy, Managing Director, RBC Capital Markets

10:30 a.m. **New Mexico State University — Update**
—Dr. Donald E. Pepion, Director, American Indian Programs

12:00 noon **Lunch**

- 1:00 p.m. **Emergency Management — Update**
—Ken Tiller, Pueblo of Laguna
—David Nez, Navajo Nation
—Bob Redden, Office of Emergency Management
- 2:30 p.m. **Civil Rights Issues — Farmington**
—William E. Standley, Mayor, City of Farmington
—Bob Hudson, City Manager, City of Farmington
—Michael Burrige, Chief of Police, City of Farmington
—Lyndy D. Bennett, District Attorney, Eleventh Judicial District, Division 1
- 4:00 p.m. **Recess**

Wednesday, October 4 — Inn of the Mountain Gods, Mescalero

- 9:00 a.m. **Tribal Infrastructure Fund**
—Cisco Bob, Jr., Member, Tribal Infrastructure Board
—Benny Shendo, Jr., Secretary of Indian Affairs
- 11:00 a.m. **Capital Outlay and the Navajo Nation — Update**
—Benny Shendo, Jr., Secretary of Indian Affairs
—Representative, Office of the President and Vice President, Navajo Nation
(Invited)
- 1:00 p.m. **Adjourn**

**MINUTES
of the
FIFTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**October 2-4, 2006
Mescalero, New Mexico**

The fifth meeting of the Indian Affairs Committee for the 2006 interim was called to order by Senator John Pinto, chair, on Monday, October 2, 2006, at 10:35 a.m. at the Inn of the Mountain Gods in Mescalero, New Mexico.

Present

Sen. John Pinto, Co-Chair
Sen. Rod Adair (10/3)
Rep. Ray Begaye
Sen. Dianna J. Duran
Rep. Irvin Harrison
Rep. Manuel G. Herrera
Rep. Patricia A. Lundstrom
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez (10/2, 10/3)
Rep. Don L. Tripp (10/2, 10/3)
Rep. W.C. "Dub" Williams

Advisory Members

Sen. Joseph J. Carraro
Rep. Nick L. Salazar
Rep. Gloria C. Vaughn

Absent

Rep. James Roger Madalena, Co-Chair
Sen. John C. Ryan
Sen. Leonard Tsosie
Rep. Teresa A. Zanetti

Sen. Ben D. Altamirano
Rep. Ben Lujan
Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Sen. William E. Sharer

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Charles H. Van Gorder
Larry Matlock
Kate Ferlic

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Monday, October 2

Welcome and Status Update

Celina Chino, first lady of the Mescalero Apache Tribe and director of retail operations for the Inn of the Mountain Gods, and Dale Webb, tribal administrator for the Mescalero Apache Tribe, welcomed the legislators to Mescalero and gave a status update on tribal affairs.

From Mr. Webb's perspective, a tribe should run like a business. The Mescalero Apache Tribe owns a telephone company, two sawmills, a 1,600-head cattle operation, a gas company (Mescalero Gas), a tribal store, a ski resort (Ski Apache) and the Inn of the Mountain Gods Resort and Casino, which has 1,200 to 2,000 employees with a minimum wage of \$7.50. The 2005 and 2006 audits are in compliance. Future plans include building a bioelectric generator for the spaceport, putting a skateboard park on the reservation, upgrading a fish hatchery and construction of a new firehouse for which the legislature gave \$2.5 million last year.

Two primary concerns for the tribe are education and health care. For education, the tribe wants more college and skill-based trade opportunities for local students. The high school and vocational programs are currently funded by Bureau of Indian Affairs grants. For health care, the tribe is looking for capital outlay and federal grants to establish more programs, including care for the elderly, preventative medicine, a psychologist and emergency care. While the tribe recognizes funding limitations in that commingling is not permitted, they plan to ask the legislature for capital outlay funds to provide for a tribal psychologist. One legislator recommended that the tribe solicit a Project ECHO location in Mescalero to address and prevent hepatitis C. The tribe also hopes to get funding to establish an economic development department. Lastly, the tribe is thinking about refinancing the resort, but has not yet considered bonding the project. Currently, the resort is a public company.

On a motion by Representative Lundstrom, seconded by Representative Williams, the committee unanimously voted to write two letters — the first to Dr. Aurora of Project ECHO to encourage creating a location in Mescalero and the second to Mark Cross to encourage a general assessment be performed for economic development purposes. On a motion by Representative Begaye, seconded by Senator Rainaldi, the committee voted unanimously to write a letter to the New Mexico congressional delegation requesting full funding of the Indian Health Service (IHS) in Indian country. The letter should also be sent to the secretary of the interior requesting support.

Department of Health — Update

Michelle Lujan Grisham, secretary of health, reviewed statistics of racial and ethnic health disparities in New Mexico. The department issued a report card on these issues on August 30, 2006, which Secretary Grisham distributed at the meeting. She emphasized that alcoholism,

infant mortality, obesity, diabetes and suicide rates are problematic within Native American communities. Secretary Grisham emphasized the need to involve Native Americans in data and research, recognize tribes as health care providers and include these communities in government planning efforts. A priority for the department is to increase access benefits. For example, the department helped get a \$900,000 grant for minority health services with a focus to train medical interpreters. The department hopes to see more wellness centers on reservations and is committed to recruiting health care professionals through stipends and loan forgiveness. In terms of successes, most new money coming into the department is focused on Native American and Hispanic communities.

In order to combat obesity, the department banned junk food in schools. Future goals include New Mexico-grown produce in schools and a ban on sodas. New Mexico is highly ranked in dietary standards for schools. One legislator requested information on the new height/weight charts issued by the federal government for evaluating body mass indexing. In response, the secretary suggested students be charted annually on these statistics and their parents be informed of the results. This idea is modeled on an Arkansas program, where it cost \$1 million to implement.

With the high rate of teen pregnancy and the concern with sexually transmitted diseases, the department is focused on sex education. New Mexico received "abstinence-only" federal funds that Secretary Grisham will direct into an education pilot program for the 18-29 age group. In response to concern from legislators about not reaching enough students, Secretary Grisham reported that the department has never had the money to institutionalize a comprehensive sex education program. New Mexico's HIV-AIDS program is strong, which Secretary Grisham credits for a decrease in transmission rates.

Access to Healthy Foods

Pam Roy, coordinator of the New Mexico Food and Agriculture Policy Council, Representative Herrera and other members of a New Mexico delegation attended a conference on access to healthy foods on September 8, 2006 in Philadelphia. "Mobile Foods", a transportation system that takes groceries to rural areas without grocery stores, could be a successful program in rural New Mexico. After discussing rural communities' inability to access healthy foods, Ms. Roy proposed that these communities partner with farmers' markets and private and nonprivate sectors on providing locally grown foods for local needs. Currently, a program exists called "Healthy Kids and Healthy Economy", which acquires local produce for school lunch programs. A successful private project is underway at the Pueblo of Zuni focusing on kids eating fresh fruits and vegetables. The project is funded by a \$1 million congressional appropriation that gave \$40,000 to 25 schools.

In low-income areas, people spend 13 to 26 percent of their annual income on groceries. In New Mexico, a basket of healthy food in an urban area is \$55.00 compared to rural areas where the same basket costs \$85.00. Because fuel costs are high and the state is large, the best option is to create a systematic approach to help communities build on local economic

development opportunities to provide better food. A good example is the Dixon Co-op, which was initiated on a small planning grant. Also, small initiatives like moving healthy foods to the front of the store have been successful. Craig Mapel, marketing specialist with the New Mexico Department of Agriculture, works with public schools and senior programs in Rio Arriba and Santa Fe counties and emphasized that distribution is the largest hurdle facing healthy foods initiatives.

Ms. Roy asked legislators to consider sponsoring a memorial this upcoming session and to be prepared for and supportive of bills for the 2008 session. Legislators are concerned about the long-term health care costs of people eating unhealthy foods, living with obesity and living with high cholesterol. The committee requested that Ms. Roy gather information on some of the federal programs.

The meeting was recessed by Senator Pinto at 5:10 p.m.

Tuesday, October 3

The meeting was reconvened by Senator Pinto on Tuesday, October 3, 2006, at 9:15 a.m. at the Inn of the Mountain Gods in Mescalero, New Mexico.

Indian Reservation Roads Bonding Program — Update

Mark Valenzuela, director of governmental affairs and legislative finance strategy for the New Mexico Finance Authority (NMFA), and Paul Cassidy, managing director of RBC Capital Markets, presented information on the GRIP program. In 2004, NMFA obtained \$700 million in new money bonds and spent \$550 million. Last year, NMFA acquired another \$450 million in bonds at an interest rate of 4.51 percent. Despite an increase in construction costs, there has not been a negative impact on the bond rating. In fact, due to the Department of Transportation's lien structures and the fact that the debt has not exceeded the original maturity, the rating has improved.

In general, bonds are taxable or tax exempt, which allows interest earnings to be free from federal and, often, state taxes. Tax-exempt bonds are limited to governmental entities, cannot be used for annual operating budget needs or investment purposes and must be spent quickly (typically within five years). Bonds can be issued pursuant to specific revenues (i.e., water system fees) or tied to property taxes (general obligation bonds). New Mexico sells approximately \$2 billion in debt annually. New Mexico was the first state to issue highway debt secured only by federal revenues.

Mr. Valenzuela presented two options for developing a bond program for transportation on tribal land. First, the state could create a comprehensive Native American GRIP program, which would entail new legislation to establish project criteria, revenues and bond authority. As a first step, Mr. Valenzuela suggested a memorial or grant to fund a study. Second, individual tribes could bond their own programs and seek financing through NMFA or other avenues,

including investment banks. The Ramah Navajo project is a successful example of the second option, although a legislator pointed out that Ramah is in a different position than other Navajo chapters because of its 638 independent status to contract.

On a motion by Representative Lundstrom, seconded by Representative Begaye, the committee voted unanimously to draft a bill creating Native American GRIP for northwest New Mexico as a phase one pilot program.

New Mexico State University — Update

Dr. Donald E. Pepion, director of American Indian programs for New Mexico State University (NMSU), and Patricia Quintana, director of governmental affairs for NMSU, presented an update on the status of Native American students at NMSU and plans for the future of American Indian programs. Even though nine percent of the state's population is Native American, this group only comprises three percent of NMSU's student population. In 2004, retention rates for Native American students were 63 percent compared to 73 percent at NMSU overall. Dr. Pepion hopes the rate will improve with more participation in the voluntary peer mentoring program. Graduation rates, based on a six-year plan, for Native American students are 30 percent compared with 45 percent overall at NMSU. The top three reasons students leave before graduation are lack of academic preparation, social transition and lack of money. Although NMSU ranks fifth in the nation for graduating Native Americans, the availability of more scholarships should increase this percentage.

NMSU received \$3.1 million in funding for a Native American Cultural Center but still needs another \$3 million. Mike Martin, president of NMSU, has spoken with the governor about the money but NMSU wants the legislature to know this is a top priority.

Emergency Management

Ken Tiller from the Pueblo of Laguna asked for legislative support to create emergency manager positions for 22 tribes in order to promote and coordinate emergency response to potential natural and manmade disasters. A Native American section of the Emergency Managers Association was founded two years ago and tribes are seeking to expand their response capabilities for the safety and welfare of tribal members and larger New Mexico communities. Mr. Tiller explained that tribes need development and oversight of their individual emergency operations plan to be implemented by these newly created positions. Mr. Tiller asked legislators to consider sponsoring legislation to fund the position for the 22 tribes at a cost of \$60,000 per tribe. One legislator suggested that prior to capital outlay requests, communities need to prepare emergency response system plans. After the planning documents are updated, legislators will be more open to capital outlay.

Civil Rights Issues — Farmington

William E. Standley, mayor of Farmington, Bob Hudson, city manager for Farmington, Michael Burrige, chief of police for Farmington, and Lyndy D. Bennett, district attorney for the Eleventh Judicial District, reported the results of the Clint John investigation, solicited questions

and talked about racial tensions in Farmington. Clint John was a Navajo man killed by a member of the Farmington police force in the Wal-Mart parking lot. While the investigation failed to uncover any misconduct, the case raised concerns about race relations and intolerance in Farmington.

The district attorney's office recently filed charges against three white men who beat an intoxicated Navajo man. In this case, the district attorney filed a petition for the hate-crime sentencing enhancement. Seventeen percent of Farmington is Native American, equal to a population of approximately 44,000. There are no Native Americans on the four-member city council, but of the five county commissioners, two are Native American. Farmington hopes to hire a specialist to teach best practice standards to the Police Advisory Board and address solutions that have worked in other cities that border Native American communities.

On a motion by Representative Lundstrom, the committee unanimously agreed to recess the meeting at 3:55 p.m.

Wednesday, October 4

The meeting was reconvened by Senator Pinto on Wednesday, October 4, 2006, at 9:22 a.m. at the Inn of the Mountain Gods in Mescalero, New Mexico.

Tribal Infrastructure Fund

Benny Shendo, secretary of Indian Affairs, presented past project review criteria for last year's appropriations. In the 2004 session, \$3 million was appropriated to the Department of Finance and Administration (DFA) as "tribal infrastructure". DFA requested tribes submit their top three priorities and then consulted with IHS, the Indian Affairs Department (IAD) and NMFA. From this, DFA was able to leverage \$15 million in projects. Last year, no money went directly to the Tribal Infrastructure Fund (TIF) because there has not been a way to activate the board. The TIF was established as a mechanism for appropriating money from both interest and corpus of the fund, which receives funding from a variety of sources, including legislative appropriations. This year, the board has been activated and IAD resources were used to pay for travel. For money for the upcoming year, the TIF Board sent letters to all tribes and Navajo chapters requesting proposals — based on the infrastructure capital improvement planning (ICIP) process — be submitted for funds by September 20. Currently, there are \$30 million in projects and only \$5 million available. The TIF board will review applications and decide on projects primarily based on readiness and leveraging. The TIF aims to have chosen projects by October 30. Secretary Shendo cautioned that in the 2007 session, any appropriated amount less than \$10 million will be insufficient.

Legislators discussed concerns over duplication of requests and the lack of legislative oversight when TIF determines what projects receive funding. One legislator suggested getting rid of the board altogether. Generally, legislators agreed the original bill had been rushed and changes need to be made this session. On a motion by Representative Lundstrom, the committee

unanimously agreed to change the TIF statute to include legislative oversight.

Capital Outlay and the Navajo Nation

The TIF Board has not developed policies on how to reconcile issues around Navajo Nation capital outlay, particularly with the Transportation and Community Development Committee (TCDC). The legislators agreed that the TIF Board cannot encumber the Navajo Nation under current Navajo law by giving money directly to chapters. However, Secretary Shendo and the IAD hope to work with the Navajo Nation and its chapters to help streamline the internal process to minimize bureaucratic hurdles. The IAD is concerned that money is getting to the chapter houses. Casey Begaye from the Navajo Nation Capital Improvement Department and Arvin Mitchell of Navajo Nation community development answered the committee's questions on the Navajo Nation's procedure for obtaining and distributing funds. The Navajo Nation has been losing millions of dollars from not being able to fully fund projects. The Navajo governance is currently working on making its processes more efficient. In fiscal year 2006, the Navajo Nation developed a policy that all requests funnel through the CIO process and then be approved by TCDC and IGR.

Latonya Vicente, attorney for the Navajo Nation, stated the nation's position on Senate Bill 579 as unchanged. The Navajo Nation believes that the bill circumvents Navajo law and infringes on sovereignty with respect to direct payments. The bill allows political subdivisions to be vendors and receive direct payments while the nation's laws require central government approval to protect the nation's best interests. Other concerns include liability and whether the joint powers agreement process applies to SB 579. Ms. Vicente has written Secretary Shendo in regard to many of these outstanding questions and has not received a response. In general, the Navajo Nation requests that this bill be repealed. On a motion by Representative Lundstrom, seconded by Representative Harrison, the committee unanimously voted to ask the IAD to respond to all inquiries that come in writing, especially concerning who serves as the fiscal agent for the TIF. Senator Rainaldi amended the motion to include better communication by the Navajo Nation on accountability and suggestions to resolve the current dilemmas. On a motion by Senator Pinto, seconded by Representative Salazar, the committee unanimously agreed to go on record requesting to include the funding of the Navajo Nation building construction.

Adjournment

There being no further business before the committee, Representative Salazar moved and the committee unanimously agreed that the fifth meeting of the Indian Affairs Committee for the 2006 interim be adjourned at 12:41 p.m.

Revised: November 1, 2006

**TENTATIVE AGENDA
for the
SIXTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**November 2-3, 2006
Pueblo of Sandia
Santa Fe**

Thursday, November 2 — Sandia Casino and Resort

- 10:00 a.m. **Call to Order**
- 10:05 a.m. **Pueblo of Sandia — Welcome and Status Update**
—Lawrence R. Gutierrez, Governor
- 12:00 noon **Lunch**
- 1:00 p.m. **Native American Veterans Service Issues**
—John M. Garcia, Secretary of Veterans' Services
—Representative, Navajo Nation
- 2:00 p.m. **Payday Lending in New Mexico — Administrative Rules**
—Ed Lopez, Superintendent of Regulation and Licensing
—William Verant, Director, Financial Institutions Division, Regulation and
Licensing Department
—John Rabenold, Vice President of Governmental Affairs, Check 'N Go
—Michael Donnelly, Advocacy Representative, AARP New Mexico
—Zackeree Kelin, DNA-People's Legal Services
- 4:00 p.m. **Recess**

Friday, November 3 — Institute of American Indian Arts (IAIA)

- 9:00 a.m. **IAIA — Welcome and Status Update**
—Richard Tobin, Acting President, IAIA
—Hayes Lewis, Director, Center for Lifelong Education, IAIA

- 10:00 a.m. **Native American Independent Living Initiative**
—Gil Yildiz, Executive Director, Independent Living Resource Center
—Joseph Rey, Native American Liaison with Independent Living Resource Center
—Juana Valencia, Native American Liaison with Independent Living Resource Center
- 11:00 a.m. **International Film Festival**
—Bob Gruenig, Interim Executive Director, National Tribal Environmental Council
—Mary Velarde, Special Projects Director, National Tribal Environmental Council
—Veronica Tiller, Film Festival Coordinator
- 11:30 **Native American Arts and Crafts — Certification Mark Program**
—Representative Patricia A. Lundstrum
- 12:00 noon **Adjourn**

**MINUTES
of the
SIXTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**November 2-3, 2006
Pueblo of Sandia
Santa Fe**

The sixth meeting of the Indian Affairs Committee for the 2006 interim was called to order by Representative Nick L. Salazar on Thursday, November 2, 2006, at 10:55 a.m. in the Sandia Resort and Casino at the Pueblo of Sandia, New Mexico.

Present

Rep. James Roger Madalena, Co-chair (11/2)
Sen. John Pinto, Co-chair
Sen. Dianna J. Duran
Rep. Irvin Harrison (11/2)
Rep. Patricia A. Lundstrom (11/2)
Sen. Nancy Rodriguez
Sen. John C. Ryan
Rep. Don L. Tripp (11/3)
Sen. Leonard Tsosie (11/2)

Absent

Sen. Rod Adair
Rep. Ray Begaye
Rep. Manuel G. Herrera
Sen. Lidio G. Rainaldi
Rep. W. C. "Dub" Williams
Rep. Teresa A. Zanetti

Advisory Members

Sen. Ben D. Altamirano
Sen. Joseph J. Carraro
Sen. Richard C. Martinez
Rep. Debbie A. Rodella (11/2)
Rep. Nick L. Salazar
Rep. Gloria C. Vaughn (11/3)

Rep. Ben Lujan
Sen. William E. Sharer

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Charles H. Van Gorder
Kate Ferlic

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Thursday, November 2 — Sandia Resort and Casino

Pueblo of Sandia — Status Update

Governor Lawrence R. Gutierrez welcomed the committee to the Pueblo of Sandia and the Sandia Resort and Casino. Governor Gutierrez reviewed the recent construction project at the resort and casino and indicated that the pueblo now has 2,000 employees. Kathy Potter, director of education for the pueblo, stressed that the pueblo seeks to get students graduated with skills that match post-secondary programs, and expects a 100 percent high school graduation rate. The pueblo's facilities also include a wellness center that addresses health issues such as diabetes and heart disease. She reviewed the Indian education status report and observed that present levels of achievement are not acceptable. The learning style of Native American students are often different from other students and they may get overlooked. Teachers need training on how to teach students with different ethnic backgrounds. The tribal council has discussed the possibility of starting its own school system. Alex Puglisi, environmental director for the pueblo, addressed concerns regarding water quality, tribal water rights, solid waste, consultation on traditional cultural sites and storm water runoff. Frank Chavez, economic development director for the pueblo, noted that the pueblo is the eleventh largest employer within the Albuquerque metropolitan area.

Native American Veterans Service Issues

John M. Garcia, secretary of veterans' services, and Lou Helwig, director of field services for the Veterans' Services Department, briefed the committee on issues related to veterans' affairs. The department employs 35 people, of whom 17 are accredited veterans services' officers who provide outreach to veterans. There are an estimated 181,519 veterans living in New Mexico, of whom about 15,000 are Native American. Native Americans are the highest percentage ethnic group participating in the military but have the lowest percentage of veterans working with the Veterans Administration for medical services. Four of the department's service officers serve in counties with high Native American populations and two of those service officers are Native American. Secretary Garcia reviewed materials regarding services and benefits provided to veterans, including capital outlay appropriations totaling \$5.7 million, transportation in privately owned vehicles and the plight of homeless veterans. Mr. Helwig described in detail the Native American Tribal Veterans Representative Program, the purpose of which is to guide, tutor and coach tribal veterans' representatives within each tribe and pueblo to assist tribal members in obtaining benefits for military veterans and their families. The goal is to have an accredited, trained representative within each tribe and pueblo that can communicate in the tribe or pueblo's native tongue and understand the nuances of tribal customs and principles.

Payday Lending in New Mexico — Administrative Rules

Ed Lopez, superintendent of regulation and licensing, and Bill Verant, director of the Financial Institutions Division, Regulation and Licensing Department, led off the discussion of regulating the payday loan industry. Superintendent Lopez reviewed the problems that have been caused by predatory lending in the payday lending industry and commented on the rules that had been promulgated earlier in the year but that had been stayed by court order. These rules were not an effort to usurp legislative authority, but rather an attempt to keep the issue

alive before the public. One of the problems is that there is no independently verifiable information regarding the scope of the payday lending industry in New Mexico. The administration is committed to finding a solution to the payday lending problem, and the discussion draft of the bill that may be sponsored by Representative Lundstrom represents a balanced approach to the problem along the lines of House Bill 409 during the 2006 legislative session. Superintendent Lopez and Mr. Verant reviewed data regarding the payday and car title lending industries in New Mexico. A problem that may arise in the future is the attempted conversion of payday loans into micro-installment loans.

John Rabenold, vice president of governmental affairs for Check 'N Go, addressed the issues from the industry perspective. He commented that there has been a lot of misinformation about the payday lending industry. Employees appreciate their jobs and customers appreciate the service provided by payday lenders. The industry has been and remains willing to work to find acceptable restrictions on payday lending. However, customers know about the terms of their loans and payday loans are a necessary product when used in a reasonable manner by responsible customers. He noted that the industry is subject to market forces and that if lower interest rates were feasible, some companies would be offering reduced fees. He also pointed out effective interest rates for bounced check fees; that some banks are also offering direct deposit pay advances; and that some credit unions are offering payday loans with up to five rollovers.

Zackeree Kelin, an attorney with DNA-People's Legal Services, commented that Native Americans are particularly vulnerable to predatory lending practices due to limited economic opportunities and higher rates of illiteracy. He disputed the claim that payday loans are high-risk and, therefore, justify high interest rates. Payday lending is bad for the community because it takes away limited discretionary income. The objective should be to do away with payday loans and instead create alternatives to predatory lending.

Mike Donnelly, an advocacy representative for AARP New Mexico, observed that this issue has been before the legislature for years and there has been no success in passing meaningful restrictions on payday lending. Part of the problem has been an inability to determine what constitutes a fair interest rate on payday loans. In the meantime, the status quo is unacceptable as it permits continuation of the "cycle of debt". AARP advocates the use of a database to track the payday lending industry, a 30-day minimum term for payday loans, a single rollover, a mandatory payment plan, a limit on the total amount of payday loans that can be taken out by a consumer, mandatory cooling off periods and a rate of \$8.00 per \$100 for interest and fees.

Following discussion and comments by committee members, Representative Lundstrom moved that the committee endorse for the 2007 legislative session the discussion draft she had presented to the committee. Senator Martinez seconded the motion. Senator Duran asked for a quorum count and it was determined that since there was not a quorum present of voting

members of the committee, those present would be acting as a subcommittee. The motion passed with Senators Duran and Carraro voting no.

Native American Arts and Crafts — Certification Mark Program

Representative Lundstrom presented a discussion draft of a bill that would amend the Indian Arts and Crafts Sales Act to create a voluntary certification mark program. At the present time, there is no mechanism to certify that Indian arts and crafts items are authentic, and the provisions of the Indian Arts and Crafts Sales Act have not been enforced over the years. The proposed certification mark program would establish an incentive for artisans to have their goods certified as being authentic and such certification could increase prices and sales.

Superintendent Lopez expressed the Regulation and Licensing Department's strong support for the bill. Kathleen O'Dea, director of the Boards and Commissions Division, described the role of the Regulation and Licensing Department in the operation of boards and how the department might interact with the board established pursuant to the draft bill. The department would provide administrative support to the board but enforcement would still be the responsibility of the Office of the Attorney General or county district attorneys. Following questions and discussion by committee members, Senator Rodriguez moved that the committee endorse the draft bill for the 2007 legislative session. Senator Pinto seconded the motion and the committee, acting as a subcommittee, approved the motion without opposition. Representative Lundstrom suggested that the co-chairs work with Chase Van Gorder to determine the composition of the proposed board.

Following the presentations regarding the Native American arts and crafts certification mark program, Senator Pinto recessed the meeting at 4:20 p.m.

Friday, November 3 — Institute of American Indian Arts

The sixth meeting of the Indian Affairs Committee for the 2006 interim was called back into session by Senator Pinto on Friday, November 3, 2006, at 9:35 a.m. at the Institute of American Indian Arts (IAIA) in Santa Fe.

IAIA — Welcome and Status Update

Ramus Suina, tribal relations specialist at IAIA, welcomed the committee to IAIA and explained that the school's executives were out of state and could not attend the meeting. Mr. Suina briefed the committee on the nature of the school, including its student population and courses of instruction. He explained the progress that is being made on the Center for Lifelong Education and thanked the committee for supporting capital outlay appropriations for this project. Carl Duncan, president of the student government, also welcomed the committee and thanked it for its support of IAIA.

Native American Independent Living Initiative

Gil Yildiz, executive director of the Independent Living Resource Center (ILRC), and Joseph Ray and Juana Valencia, Native American liaisons with ILRC, presented the committee with their Native American Independent Living Initiative. ILRC is a private, nonprofit

organization based in Albuquerque and serving 10 central New Mexico counties. The mission of ILRC is to empower people with disabilities through the provision of advocacy and services. They explained that the independent living movement is the civil rights movement for people with disabilities and explained what is included within the term "disability". Core services of independent living centers include information and referral, advocacy, independent living skills training and peer mentoring. Panel members shared the story of their disabilities and their struggle to find independent living once again. ILRC received a grant in 2005 to investigate independent living centers in pueblo communities. This grant led to the present proposal for two Native American independent living centers to be located initially in the Pueblos of Laguna and San Felipe. The panel discussed the need for independent living centers in the Native American community and requested the committee's support for ILRC's capital outlay request in the upcoming legislative session.

International Film Festival

Bob Gruenig, interim executive director of the National Tribal Environmental Council (NTEC), and Veronica Tiller presented NTEC's request for an appropriation for an international indigenous environmental film festival to take place in 2008. NTEC is a nonprofit organization formed in 1991 that now has a membership of 184 federally recognized Indian tribes that is dedicated to working with and assisting all tribes in the protection and preservation of tribal environments. The \$500,000 appropriation request is for a film festival that will raise the awareness of environmental issues through indigenous voices and film, create partnerships to protect the people, natural resources and scenic vistas of Indian country, and promote New Mexico as a tourist and recreation destination. The proposal also includes production of a video for the purpose of promoting tourism on Native American lands in New Mexico and fostering environmental awareness as a way to preserve those lands.

Adjournment

There being no further business before the committee, the sixth meeting of the Indian Affairs Committee for the 2006 interim was adjourned at 11:27 a.m.

Revised: November 27, 2006

**TENTATIVE AGENDA
for the
SEVENTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**November 29 - December 1, 2006
Pueblo of Santa Clara
Santa Fe Indian School, Santa Fe
State Capitol, Santa Fe**

Wednesday, November 29 — Big Rock Casino, Espanola

- 10:00 a.m. **Call to Order**
- 10:05 a.m. **Pueblo of Santa Clara — Welcome and Status Update**
 —Michael Chavarria, Governor
 —Alvin Warren, Lt. Governor
- 12:00 noon **Lunch**
- 1:00 p.m. **Native American Voters Issues — Status Update**
 —Martin Aguilar, Coordinator, Native American Information Program, Bureau of
 Elections, Office of the Secretary of State
- 2:30 p.m. **Settlement of Indian Water Rights — Status Update**
 —John A. D'Antonio, Office of the State Engineer
 —Gregory Ridgley, Deputy Chief Counsel, Office of the State Engineer
- 4:00 p.m. **Recess**

Thursday, November 30 — Santa Fe Indian School

- 9:00 a.m. **Santa Fe Indian School — Welcome and Status Update**
 —Joseph Abeyta, Superintendent
- 10:00 a.m. **Corrections Programs for Native Americans**
 —Joe R. Williams, Secretary of Corrections
 —Lenny Foster, Program Supervisor, Navajo Corrections Program,
 Behavior Health Services, Division of Health, Navajo Nation
- 11:00 a.m. **Repeal of Coal Surtax**

—Senator Ben D. Altamirano
—Justin Jones, Government Relations, BHP Billiton
—Joe Grenawalt, Senior Contract Analyst, BHP Billiton

12:00 noon **Lunch**

1:00 p.m. **Off-Reservation Gaming — Status Update**
—Governor James Roger Madalena, Pueblo of Jemez

1:30 p.m. **University of New Mexico Minority Program Expenditures — Legislative Finance Committee (LFC) Report**
—Arley Williams, LFC Analyst

2:30 p.m. **Tribal Capital Outlay Appropriations — Status Update**
—Rebecca Martinez, Capital Outlay Manager, Indian Affairs Department

3:30 p.m. **Tribal Infrastructure Act — Status Update**
—Benny Shendo, Jr., Secretary of Indian Affairs

4:00 p.m. **Recess**

Friday, December 1 — Room 322, State Capitol

9:00 a.m. **Indian Affairs Department — Legislative Update**
—Benny Shendo, Jr., Secretary of Indian Affairs

10:00 a.m. **Endorsement of Legislation**

12:00 noon **Adjourn**

**MINUTES
of the
SEVENTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**November 29 - December 1, 2006
Espanola, New Mexico
Santa Fe, New Mexico**

The seventh meeting of the Indian Affairs Committee for the 2006 interim was called to order by Representative James Roger Madalena, co-chair, on Wednesday, November 29, 2006, at 10:37 a.m. at the Big Rock Casino in Espanola, New Mexico.

Present

Rep. James Roger Madalena, Co-chair
Sen. John Pinto, Co-chair (12/1)
Sen. Rod Adair (11/30, 12/1)
Rep. Ray Begaye (11/30, 12/1)
Sen. Dianna J. Duran
Rep. Manuel G. Herrera
Sen. Lidio G. Rainaldi (11/30, 12/1)
Sen. Nancy Rodriguez (12/1)
Sen. John C. Ryan (12/1)
Sen. Leonard Tsosie (12/1)
Rep. Teresa A. Zanetti (11/29, 12/1)

Absent

Rep. Irvin Harrison
Rep. Patricia A. Lundstrom
Rep. Don L. Tripp
Rep. W. C. "Dub" Williams

Advisory Members

Sen. Ben D. Altamirano
Rep. Ben Lujan (11/30, 12/1)
Sen. Joseph J. Carraro (12/1)
Sen. Richard C. Martinez (11/29, 11/30)
Rep. Debbie A. Rodella
Rep. Nick L. Salazar (11/29, 11/30)
Rep. Gloria C. Vaughn

Sen. William E. Sharer

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Charles H. Van Gorder
Larry Matlock

Guests

The guest list is in the meeting file.

Wednesday, November 29 - Big Rock Casino, Espanola

Pueblo of Santa Clara - Welcome and State Update

Lieutenant Governor Alvin Warren welcomed the committee to the Pueblo of Santa Clara as Governor J. Michael Chavarria was out of state at a conference. Lieutenant Governor Warren reviewed with the committee the history of the pueblo. The status of the pueblo as a "domestic dependent nation" has been established by court cases and legislation as the treaty with the United States was never ratified. The pueblo has a tribal population of approximately 2,800 people, but the total population within the pueblo's boundaries is about 10,000. Two-thirds of the City of Espanola fall within the pueblo's boundaries. The pueblo has had a written constitution since 1935. The pueblo has adopted 57 objectives to achieve in a one-year period. The pueblo has experienced problems stemming from the insufficient and dwindling funding of the Indian Health Service and law enforcement efforts.

Calvin Tafoya, chief executive officer of the Santa Clara Development Corporation, briefed the committee regarding the economic development efforts of the pueblo. There has been a conscious effort to separate business pursuits from tribal government. Dual taxation has been a significant problem for businesses operating in Indian country. Recent activities have included a new casino and renovation of the shopping center. The pueblo experienced serious problems with utility providers being unable to provide service to the new facility in a timely manner. The Big Rock Casino has 285-300 employees; the Black Mesa golf course has 25-40 employees; the convenience store has 12 employees; and the corporation offices have six employees. One area of concern continues to be the ongoing allegations of trespass by the City of Espanola water and sewer lines. Recent developments on that topic were discussed by Joseph Naranjo, with the pueblo realty office and Lieutenant Governor Warren.

Bruce Bauer, forestry director for the pueblo, presented a PowerPoint presentation that discussed the following issues: the reforestation of 4,036 acres following the Cerro Grande fire, stream restoration, sedimentation removal, bosque restoration, wildlife habitat enhancement, efforts to reduce insect and disease problems and firefighting.

Lieutenant Governor Warren and Mel Tafoya addressed the committee regarding capital outlay appropriations. Past appropriations have been used for the senior center that is now in its fourth stage of improvements. Other past appropriations have been used for vehicles for the senior center, renovation of the library, the tribal administration building and the judicial complex. In the coming year, the pueblo hopes to receive funding to continue work on the tribal administration building and progress on other projects, including water and sewer improvements, irrigation and a regional adult day care center.

Following the presentation by representatives of the pueblo, members of the committee were taken on a tour that included the senior center.

Native American Voters Issues - Status Update

Martin Aguilar, coordinator with the Native American information program at the Bureau of Elections in the Office of the Secretary of State, and Amos Baca, voting machine technician, briefed the committee on voting statistics for the 2007 general election. The Navajo Nation had a presidential election, so voter turnout was generally good, ranging from 38 to 68 percent turnout with an average voter turnout across all Navajo polling places of 56 percent, four points higher than the statewide average voter turnout. The voter turnout among the 19 pueblos was 42 percent, although the Pueblo of Sandia had a 64 percent voter turnout. Mr. Aguilar also discussed the party affiliation statistics for Native American voters and the rate of voter registrations. Mr. Baca discussed recent developments in the use of voting machines using paper trails. Mr. Aguilar discussed the use of disability machines and the success with machines programmed to use the Navajo language. They hope to develop voting machines in the future that use the pueblo languages. Finally, Mr. Aguilar noted that a new secretary of state, Mary Herrera, would be taking office in January and that additional funding will be requested for Native American voting staff. In response to questions from the committee, there was also discussion of the use of provisional ballots.

Desi Brown, a volunteer who works with Senator Gerald Ortiz y Pino, made a brief presentation regarding proposed legislation that would permit voters to register on election day. Similar bills have been introduced in recent sessions but have not passed. Election day registration is now permitted in seven states and has resulted in a significant increase in minority voting rates.

Settlement of Indian Water Rights - Status Update

In accordance with the requirements of Section 72-1-11 NMSA 1978, Gregory Ridgley, deputy chief counsel, Office of the State Engineer, Ted Bagley, assistant state attorney general, Tanya Trujillo, general counsel for the Interstate Stream Commission, and Myron Armijo, Native American water liaison with the Office of the State Engineer, briefed the committee on the status of pending Indian water rights settlements. There are presently three Indian water rights settlements in progress: the Navajo Nation settlement in the San Juan adjudication, the settlement agreement with the Pueblos of Nambé, Pojoaque, Tesuque and San Ildefonso in the *Aamodt* adjudication and the Pueblo of Taos settlement in the Rio Pueblo de Taos/Rio Hondo adjudication. In each of these settlements, a settlement agreement has been signed by the tribal entity and the state but not by the United States. The federal government will not sign any agreement until Congress passes legislation authorizing and directing the secretary of the interior to do so. The panelists explained the benefits of each settlement agreement to the affected parties and the costs and funding of each settlement.

Following the presentation regarding the status of settlement of Indian water rights, Representative Madalena recessed the meeting at 3:05 p.m.

Thursday, November 30 - Santa Fe Indian School, Santa Fe

The seventh meeting of the Indian Affairs Committee for the 2006 interim was called back into session by Representative Madalena on Thursday, November 30, 2006, at 9:55 a.m. at the Santa Fe Indian School in Santa Fe.

Governor Ernest Chavez, director for trust land management for the Santa Fe Indian School, gave a blessing and then welcomed the committee to the school and introduced representatives of the student body. Governor Chavez reviewed the recent history of the school, including the transfer of ownership of the land to the 19 pueblos. Joe Abeyta, school superintendent, also welcomed the committee and commented on the goal of moving education forward in New Mexico. A member of the Governor's Transition Team on Education, Superintendent Abeyta, made the following recommendations: 1) New Mexico must provide educational research opportunities that can be conducted on-site within the local school district; 2) New Mexico must effectively engage parents by clearly defining their roles and allowing for meaningful participation and accountability in their child's education; and 3) New Mexico must build on current models of success when it is well documented that New Mexico schools are succeeding with their students.

Corrections Programs for Native Americans

Joe R. Williams, secretary of corrections, led a panel that included Irma Sedillo, deputy secretary for operations, Jolene Gonzales, deputy secretary for finance, Charlene Knipfing, director of the Probation and Parole Division, Tex Joey, Native American advisor, and Len Foster, Navajo Nation Corrections Project. New Mexico has 484 incarcerated Native Americans, of which 47 are women. Of the 437 men, about 60 percent are serving time for violent offenses. One hundred thirty-one of the Native American inmates are serving time for DWI offenses. The department's programming seeks to recognize the cultural background of Native American inmates and includes sweat lodges, pipe circles, talking circles and cedar smudging. Native American inmates receive spiritual counseling, are permitted to participate in group activities, are permitted to have personal and religious items such as medicine pouches, drums and tobacco, and are permitted to observe native holidays. Secretary Williams also provided statistics regarding the number of Native Americans within the parole system and the number of Native Americans employed by the department (77 persons; 3.9 percent of the work force). He also commented on problems the department has when Native Americans who commit parole violations reside on reservation lands where the department does not have arrest authority. Mr. Foster and Mr. Joey described their efforts in providing spiritual counseling and cultural assistance to Native American inmates. Comments and questions from committee members concerned medical treatment for inmates, Native American gang activity, cultural sensitivity, funding for cultural needs and family visitations.

Repeal of Coal Surtax

Senate President Pro Tem Altamirano and Justin Jones and Joe Grenawalt from BHP Billiton addressed the committee regarding a proposed bill for the 2007 legislative session that would repeal the existing severance tax surtax on coal. Mr. Jones and Mr. Grenawalt explained

the background of the surtax and exemptions that have already been enacted, the extent of BHP Billiton's operations and the economic impact of coal mining in northwest New Mexico, and the discriminatory and adverse impact that the existing surtax has on BHP Billiton. Senator Altamirano indicated he would seek the committee's endorsement of his proposed legislation.

Health Testing of Veterans

Marilyn Hoff addressed the committee regarding a proposal that would enact legislation that would provide veterans and their families with the opportunity for testing for adverse health effects resulting from the use of depleted uranium weaponry in recent and ongoing combat operations. Ms. Hoff explained the nature and effect of depleted uranium munitions and how such munitions have been used in combat operations since 1991. She also noted the health risks involved in using such munitions. The proposed legislation to be sponsored by Representative Peter Wirth and Senator Ortiz y Pino would establish and fund a voluntary testing and screening program for veterans and would set up a health resources information program.

University of New Mexico Minority Program Expenditures

Arley Williams, principal analyst for the Legislative Finance Committee, presented a report responding to a request from the committee earlier in the interim for information regarding the University of New Mexico's expenditures for minority programming. Ms. Williams' report explained the higher education funding structure, including that based on workload and incentive funds, direct appropriations through the general appropriations act, House Bill 2, Jr. and broad initiatives, university expenditures and performance reporting. After having presented this background on university funding, Ms. Williams was able to present only limited information on specific university expenditures on Native American and Hispanic programming.

Tribal Capital Outlay Appropriations - Status Update

Rebecca Martinez, capital outlay manager, Marlene Kelley, project engineer, and Stephanie Kiger, general counsel for the Indian Affairs Department, updated the committee on the status of capital outlay appropriations being administered through the department. Over the past 11 years, the state has appropriated more than \$92 million for tribal infrastructure projects administered by the department; such appropriations have more than doubled over the past two years. The panel reviewed the status of capital outlay projects over the past year and noted progress in reducing the backlog and getting projects underway. Only 10 projects will need to be reauthorized during the 2007 legislative session. The progress in the department's ability to get projects underway is a direct result of a staffing increase to four FTEs. Ms. Martinez outlined the following goals of the Capital Outlay Unit of the department: establish policies and goals to formalize the department's processes for consistency and accuracy; establish performance measures to strengthen the monitoring and compliance process; ensure results by requiring all projects to have two or more stated performance measures; initiate an advance pay process; work with state agencies to standardize contract and reporting requirements; increase the number of training sessions for tribal entities; implement timely joint powers agreements for all projects; and process payment requests within five days of receipt. Ms. Martinez distributed a spreadsheet showing the status of all capital outlay projects being administered by the

department. There is currently \$64.3 million in active projects and the department has closed out 63 projects since October 1, 2006. Committee members once again discussed what is being done to implement Senate Bill 579 from the 2006 legislative session.

Tribal Infrastructure Act - Status Update

Governor Ernest Chavez, a member of the Tribal Infrastructure Board, reported on the status of the funding requests for the current year. The four tribal representatives had met to review and score all of the proposed projects in accordance with the guidelines adopted by the board. The board had received 49 project proposals totaling \$31,869,017; \$5 million was available to award. In the end, the board approved 10 projects for infrastructure, housing, health facilities and economic development initiatives. The projects will leverage approximately \$8.7 million from other funding sources, create 85 to 100 quality jobs, impact 24,269 residents and be completed within 18 months. The approved projects were the following:

<u>Entity</u>	<u>Project</u>	<u>TIF Funds</u>
Cochiti Pueblo	Wellness Center	\$500,000
Acoma Pueblo	Wastewater Treatment System	750,000
Mescalero Apache	Water Storage Tank	400,000
Upper Fruitland Chapter	Raytheon Expansion (NAPI)	2,000,000
Pojoaque Pueblo	White Sands Housing	300,000
Upper Fruitland	Chapter House	400,000
Laguna Pueblo	Water Wells - Design & Repair	132,000
Ohkay Owingeh	Head Start Program	135,000
Zuni Pueblo	Wastewater Improvement	150,000
Pinedale Chapter	Bathroom Additions	233,000

Governor Chavez concluded by noting that the \$5 million was able to address only a small portion of the needs of Native American communities and the state needs to find a way to fund the trust fund established in the Tribal Infrastructure Act.

Following the presentation regarding the status of the Tribal Infrastructure Act, Representative Madalena recessed the meeting at 3:10 p.m.

Friday, December 1 - Room 322, State Capitol

The seventh meeting of the Indian Affairs Committee for the 2006 interim was called back into session by Senator Pinto on Friday, December 1, 2006, at 9:26 a.m. in Room 322 at the State Capitol in Santa Fe.

Indian Affairs Department - Legislative Update

Benny Shendo, Jr., secretary of Indian affairs, presented the committee with the department's legislative goals for the 2007 legislative session. The department's legislative priorities include the following: designation of a reburial ground for unmarked human remains and authorization for the Office of the Medical Investigator to conduct forensic investigations and related services for tribal governments without charge. The department also supports the following interagency legislative initiatives: lottery scholarship eligibility for tribal colleges; grandfathering certified alcohol drug abuse counselors into the state's behavioral health system; assignment of income support workers to tribal and Indian Health Service facilities; amendments to the Indian Education Act; and settlement of Indian water rights. Members of the committee commented on several of the initiatives discussed by Secretary Shendo and once again discussed implementation of Senate Bill 579 from the 2006 legislative session. Senator Tsosie moved that the committee endorse the legislative initiatives of the Indian Affairs Department. The motion was seconded by Senator Rainaldi and passed without objection. Senator Tsosie also moved that the committee recognize Esther Martinez on American Indian Day in 2007. The motion was seconded by Representative Vaughn and passed without objection.

Endorsement of Legislation

Chase Van Gorder, staff attorney, presented the committee with a folder of draft legislation for the committee to consider endorsing. The first bill for discussion was a bill proposed by Representative Begaye to certain transfer students eligible for lottery scholarships. There was considerable discussion by committee members, including issues related to the status of illegal immigrants and military dependents and several amendments were made, seconded and later withdrawn. After considerable discussion, the committee voted on whether to endorse the bill. Senators Adair, Carraro and Duran and Representative Zanetti voted in opposition. Then there was discussion regarding whether there was a quorum of voting members present and whether advisory members of the committee could be designated as voting members. Following a recess, it was determined that the committee would proceed as a subcommittee and the committee would request permission from the Legislative Council to meet on one additional day in December to vote on committee endorsement. The committee then voted as a subcommittee to recommend endorsement of all of the appropriations bills, the access to healthy foods memorial and all of the substantive bills except those addressing the Indian arts and crafts certification mark program, the Native American GRIP program and the aspartame ban. A schedule of the actions taken is attached.

Adjournment

There being no further business before the committee, the seventh meeting of the Indian Affairs Committee for the 2006 interim was adjourned at 1:05 p.m.

2007 Legislation Endorsements - Indian Affairs Committee

Substantive Bills

163893	Office of Medical Investigator - Fees	Indian Affairs Department	Concept
163894.1	Reburial Grounds	Indian Affairs Department	Done

2007 Proposed Legislation Endorsements - Indian Affairs Committee

Substantive Bills

Subcommittee Recommendation

162870.2	Lottery Scholarship Eligibility	Representative Begaye	Done	Endorse
163150.1	Gross Receipts Tax Exemption - IHS Services	Representative Rodella	Done	Endorse
163287.2	Indian Arts & Crafts - Certification Mark	Representative Lundstrom	Draft Done	No Action
163454.5	Payday Lending	Representative Lundstrom	Done	Endorse
163535.3	Eliminate Coal Severance Tax Surtax	Senator Altamirano	Done	Endorse
163638.1	Tribal Infrastructure Act - Legislative Oversight	Representative Lundstrom	Done	Endorse
163640	Native American GRIP	Representative Lundstrom	Concept	No Action
163820.4	Consumer Lending	Senator Bernadette Sanchez	Done	Endorse
164149.1	Aspartame Ban	Senator Ortiz y Pino	Done	No Action

Memorials

163634.1	Access to Healthy Foods	Representative Herrera	Done	Endorse
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Appropriations

163639.1	Native American Emergency Management (\$1,320,000)	Senator Pinto	Done	Endorse
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163835.1	Red Rock State Park (\$5 million)	Senator Pinto	Done	Endorse
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164031.2	Native American Independent Living (\$250,000)	Representative Madalena	Done	Endorse
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164057.1	Navajo Language Program (UNM) (\$277,886)	Representative Begaye	Done	Endorse
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164058.1	Native American Studies Program (UNM) (\$285,000)	Senator Tsosie	Done	Endorse
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164151.1	Jemez State Monument (\$2.9 million)	Representative Madalena	Done	Endorse
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164204.1	Native American Voter Coordinators (\$74,000)	Secretary of State	Done	Endorse
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164205.1	Native American Voter Education (\$150,000)	Secretary of State	Done	Endorse
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164254	International Indigenous Environmental Film Festival (\$250,000)	Senator Pinto	Done	Endorse
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164255	Rural Navajo Oral Health Care Plan (\$3 million/5 years)	Representative Begaye	Done	Endorse
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Revised: December 13, 2006

**TENTATIVE AGENDA
for the
EIGHTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**December 18, 2006
Room 322, State Capitol
Santa Fe**

Monday, December 18

12:30 p.m. **Call to Order**

12:35 p.m. **Endorsement of Legislation**

2:00 p.m. **Adjourn**

**MINUTES
of the
EIGHTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**December 18, 2006
Room 322, State Capitol
Santa Fe, New Mexico**

The eighth meeting of the Indian Affairs Committee for the 2006 interim was called to order by Senator John Pinto, co-chair, on Monday, December 18, 2006, at 12:25 p.m. in Room 322 at the State Capitol. Following the call to order, Senator Pinto asked that Representative Ray Begaye conduct the meeting as co-chair.

Present

Sen. John Pinto, Co-Chair
Rep. Ray Begaye
Rep. Irvin Harrison
Rep. Manuel G. Herrera
Rep. Patricia A. Lundstrom
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez
Rep. Don L. Tripp
Rep. Teresa A. Zanetti

Absent

Rep. James Roger Madalena, Co-Chair
Sen. Rod Adair
Sen. Dianna J. Duran
Sen. John C. Ryan
Sen. Leonard Tsosie
Rep. W.C. "Dub" Williams

Advisory Members

Rep. Ben Lujan, Speaker of the House
Sen. Richard C. Martinez
Rep. Nick L. Salazar
Rep. Gloria C. Vaughn

Sen. Ben D. Altamirano
Sen. Joseph J. Carraro
Rep. Debbie A. Rodella
Sen. William E. Sharer

Staff

Charles H. Van Gorder
Kate Ferlic
Tim Crawford

Guests

The guest list is in the meeting file.

Monday, December 18

Mr. Van Gorder presented the committee with a list of bills to be considered for endorsement by the committee and with the recommendations of the subcommittee that considered bills for endorsement on December 1, 2006. Senator Rodriguez moved that the committee endorse all of the legislative requests that had been presented to it. The motion was

seconded by Senator Rainaldi. Following discussion among committee members, no action was taken on the motion.

Senator Pinto circulated to the committee copies of a \$1.3 million capital outlay request for a new chapter house at the Nageezi Chapter of the Navajo Nation. The proposed chapter house would replace the chapter house that was destroyed by fire earlier this year. Ervin Chavez, San Juan County commissioner, explained the need for the new chapter house. Senator Pinto moved that the committee endorse the capital outlay request; Representative Begaye seconded the motion. Following discussion by committee members, the committee voted, without opposition, to request the staff to write a letter on behalf of the committee to the appropriate legislative committee, expressing the support of the Indian Affairs Committee for the capital outlay appropriation request for a new chapter house at the Nageezi Chapter.

Representative Lundstrom moved that the committee not consider for endorsement any bills not to be carried by members of the committee; the motion was seconded by Representative Zanetti. In the course of the committee's discussion, it was determined that the motion would affect the committee's consideration of bills regarding consumer lending, banning aspartame and amendments to the Indian Education Act. The motion passed without objection.

Representative Herrera moved that the committee endorse all of the proposed appropriation bills; the motion was seconded by Representative Harrison. The motion passed without objection. Senator Pinto moved that the committee endorse all of the remaining proposed substantive bills and the proposed memorial; the motion was seconded by Representative Harrison. The motion passed, with Representative Zanetti and Representative Don L. Tripp voting not to endorse the bill to extend eligibility for lottery scholarships to students transferring from out-of-state schools. Representative Harrison agreed to sponsor the bill that would extend eligibility for lottery scholarships to students at New Mexico tribal colleges.

Adjournment

There being no further business before the committee, the eighth meeting of the Indian Affairs Committee for the 2006 interim was adjourned at 1:05 p.m.

2007 Legislative Endorsements - Indian Affairs Committee

Substantive Bills

162870.2	Lottery Scholarship Eligibility	Representative Begaye
163150.1	Gross Receipts Tax Exemption - IHS Services	Representative Rodella
163287.3	Indian Arts & Crafts - Certification Mark Program	Representative Lundstrom
163454.5	Payday Lending	Representative Lundstrom
163535.3	Eliminate Coal Severance Tax Surtax	Senator Altamirano
163638.1	Tribal Infrastructure Act - Legislative Oversight	Representative Lundstrom
163893.2	Office of Medical Investigator - Fees	Senator Tsosie/Representative Zanetti
163894.2	Reburial Grounds	Senator Tsosie/Representative Madalena
164490.1	Lottery Scholarships - Tribal Colleges	Representative Harrison

Memorials

163634.2	Food Gap Task Force	Representative Herrera
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Appropriations

163639.1	Native American Emergency Management (\$1,320,000)	Senator Pinto
163835.1	Red Rock State Park (\$5 million)	Senator Pinto/Representative Lundstrom
164031.2	Native American Independent Living (\$250,000)	Representative Madalena
164034.1	Internet Training for the Navajo Nation (\$628,000/2 years)	Representative Begaye
164057.1	Navajo Language Program (UNM) (\$277,886)	Representative Begaye
164058.1	Native American Studies Program (UNM) (\$285,000)	Senator Tsosie
164151.1	Jemez State Monument (\$2.9 million)	Representative Madalena
164204.1	Native American Voter Coordinators (\$74,000)	Secretary of State
164205.1	Native American Voter Education (\$150,000)	Secretary of State
164254.1	International Indigenous Environmental Film Festival (\$250,000)	Senator Pinto
164255.1	Rural Navajo Oral Health Care Plan (\$3 million/5 years)	Representative Begaye
164505.1	Peer to peer Suicide Prevention (\$100,000)	Representative Begaye

164506.1	Native American Student Mental Health Services (\$500,000)	Representative Begaye
164467.1	Native American Education Outreach (\$225,000)	Representative Begaye

underscored material = new
[bracketed material] = delete

HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO HIGHER EDUCATION; MAKING CERTAIN TRANSFER STUDENTS
ELIGIBLE FOR LOTTERY SCHOLARSHIPS; CLARIFYING CONTINUING
ELIGIBILITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 21-1-4.3 NMSA 1978 (being Laws 1996,
Chapter 71, Section 3, as amended) is amended to read:

"21-1-4.3. TUITION SCHOLARSHIPS AUTHORIZED--CERTAIN
EDUCATIONAL INSTITUTIONS.--

A. To the extent that funds are made available by
the legislature from the lottery tuition fund, the boards of
regents of New Mexico state university, New Mexico institute of
mining and technology, eastern New Mexico university, western
New Mexico university, the university of New Mexico, New Mexico
highlands university and northern New Mexico [~~state school~~]

.162870.2

1 college shall award tuition scholarships for qualified resident
2 students attending their respective institutions and branches
3 of those institutions.

4 B. Except as authorized in [~~Subsection~~] Subsections
5 C and D of this section, the tuition scholarships authorized in
6 this section shall apply only to full-time resident students
7 who, immediately upon completion of a high school curriculum at
8 a public or accredited private New Mexico high school or upon
9 receiving a [~~graduate equivalent diploma~~] general educational
10 development certificate, are accepted for entrance to and
11 attend one of the state educational institutions set forth in
12 this section or one of the branches of those institutions.
13 Each tuition scholarship shall be awarded for up to [~~four~~
14 ~~consecutive years~~] eight consecutive semesters beginning the
15 second semester of the recipient's first year of enrollment
16 [~~provided that~~] if the recipient has maintained residency in
17 New Mexico, [~~and~~] maintained a grade point average of 2.5 or
18 higher on a 4.0 scale during [~~his~~] the first semester of full-
19 time enrollment and continues to maintain a grade point average
20 of 2.5 or higher on a 4.0 scale and attends the institution
21 full time during the regular academic year.

22 C. The tuition scholarships authorized in this
23 section shall also apply to full-time resident students who,
24 immediately upon completion of a high school curriculum at a
25 public or accredited private New Mexico high school or upon

1 receiving a [~~graduate equivalent diploma~~] general educational
2 development certificate, attend a two-year public post-
3 secondary educational institution in New Mexico and who, upon
4 the completion of that curriculum or at the end of two years,
5 whichever is sooner, transfer to one of the [~~post-secondary~~]
6 state educational institutions set forth in this section.

7 Those students shall be eligible for a tuition scholarship for
8 two consecutive years [~~provided that those students~~] if they
9 maintain residency in New Mexico, maintain a grade point
10 average of 2.5 or higher on a 4.0 scale and attend the
11 institution full time during the regular academic year.

12 D. The tuition scholarships authorized in this
13 section shall also apply to full-time resident students who,
14 immediately upon completion of a high school curriculum at a
15 public or accredited private New Mexico high school or upon
16 receiving a general educational development certificate, attend
17 an accredited post-secondary educational institution in another
18 state for at least one complete semester and who, within one
19 hundred twenty days of the last date of attendance at that
20 institution, transfer to one of the state educational
21 institutions set forth in this section or one of the branches
22 of those institutions. Those students shall be eligible for a
23 tuition scholarship for up to seven consecutive semesters
24 beginning the second semester of their enrollment at the
25 institution if they maintain residency in New Mexico, maintain

1 a grade point average of 2.5 or higher on a 4.0 scale during
2 the first semester of full-time enrollment at the institution
3 and continue to maintain a grade point average of 2.5 or higher
4 on a 4.0 scale and attend the institution full time during the
5 regular academic year.

6 [D.] E. The tuition scholarships authorized in this
7 section shall also apply to full-time resident students who:

8 (1) within one hundred twenty days of
9 completion of a high school curriculum at a public or
10 accredited private New Mexico high school, or of receiving a
11 ~~[graduate equivalent diploma]~~ general educational development
12 certificate, begin service in the United States armed forces;
13 and

14 (2) within one hundred twenty days of
15 completion of honorable service or medical discharge from the
16 service are accepted for entrance to and attend one of the
17 state educational institutions set forth in this section.

18 [E.] F. The ~~[commission on]~~ higher education
19 department shall prepare guidelines setting forth explicit
20 student continuing eligibility criteria and guidelines for
21 administration of the tuition scholarship program. Guidelines
22 shall be distributed to the board of regents of each
23 institution to enable a uniform availability of the resident
24 student tuition scholarships."

25 Section 2. Section 21-13-10 NMSA 1978 (being Laws 1963,

Chapter 17, Section 9, as amended) is amended to read:

"21-13-10. BOARD DUTIES.--

A. It is the duty of the community college board to determine financial and educational policies of the community college. The community college board shall provide for the management of the community college and execution of these policies by selecting a competent president for the community college, and, upon the president's recommendation, the board shall employ other administrative personnel, instructional staff or other personnel as may be needed for the operation, maintenance and administration of the community college.

B. The community college board shall have the power to fix tuition and fee rates for resident and nonresident students of the community college district, to accept gifts, to accept federal aid, to purchase, hold, sell and rent property and equipment and to promote the general welfare of the institution for the best interest of educational service to the people of the community college district.

C. To the extent that funds are made available by the legislature from the lottery tuition fund, the community college board shall award tuition scholarships for qualified resident students attending their respective institutions.

D. The tuition scholarships authorized in this section shall apply only to full-time resident students who, immediately upon completion of a high school curriculum at a

1 public or accredited private New Mexico high school or upon
2 receiving a ~~[graduate equivalent diploma]~~ general educational
3 development certificate, are accepted for entrance to and
4 attend a community college. Each tuition scholarship shall be
5 awarded for up to two consecutive years beginning the second
6 semester of the recipient's first year of enrollment, provided
7 that the recipient has maintained residency in New Mexico and
8 maintained a grade point average of 2.5 or higher on a 4.0
9 scale during ~~[his]~~ the first semester of full-time enrollment.

10 E. The tuition scholarships authorized in this
11 section shall also apply to full-time resident students who,
12 immediately upon completion of a high school curriculum at a
13 public or accredited private New Mexico high school or upon
14 receiving a general educational development certificate, attend
15 an accredited post-secondary educational institution in another
16 state for at least one complete semester and who, within one
17 hundred twenty days of the last date of attendance at that
18 institution, transfer to a community college. Those students
19 shall be eligible for a tuition scholarship for up to three
20 consecutive semesters beginning the second semester of their
21 enrollment at the community college if they maintain residency
22 in New Mexico, maintain a grade point average of 2.5 or higher
23 on a 4.0 scale during the first semester of full-time
24 enrollment at the community college and continue to maintain a
25 grade point average of 2.5 or higher on a 4.0 scale and attend

1 the community college full time during the regular academic
2 year.

3 [E.] F. The ~~[commission on]~~ higher education
4 department shall prepare guidelines setting forth explicit
5 student continuing eligibility criteria and guidelines for
6 administration of the tuition scholarship program. Guidelines
7 shall be distributed to community college boards to enable a
8 uniform availability of the resident student tuition
9 scholarships."

10 Section 3. Section 21-16-10.1 NMSA 1978 (being Laws 1996,
11 Chapter 71, Section 6, as amended) is amended to read:

12 "21-16-10.1. TUITION SCHOLARSHIPS AUTHORIZED.--

13 A. To the extent that funds are made available by
14 the legislature from the lottery tuition fund, the board of a
15 technical and vocational institute shall award tuition
16 scholarships for qualified resident students attending a
17 technical and vocational institute.

18 B. The tuition scholarships authorized in this
19 section shall apply only to full-time resident students who,
20 immediately upon completion of a high school curriculum at a
21 public or accredited private New Mexico high school or upon
22 receiving a ~~[graduate equivalent diploma]~~ general educational
23 development certificate, are accepted for entrance to and
24 attend a technical and vocational institute. Each tuition
25 scholarship shall be awarded for up to two consecutive years

1 beginning the second semester of the recipient's first year of
2 enrollment, provided that the recipient has maintained
3 residency in New Mexico and maintained a grade point average of
4 2.5 or higher on a 4.0 scale during ~~[his]~~ the first semester of
5 full-time enrollment with renewal of an additional two years
6 upon transfer.

7 C. The tuition scholarships authorized in this
8 section shall also apply to full-time resident students who,
9 immediately upon completion of a high school curriculum at a
10 public or accredited private New Mexico high school or upon
11 receiving a general educational development certificate, attend
12 an accredited post-secondary educational institution in another
13 state for at least one complete semester and who, within one
14 hundred twenty days of the last date of attendance at that
15 institution, transfer to a technical and vocational institute.
16 Those students shall be eligible for a tuition scholarship for
17 up to three consecutive semesters beginning the second semester
18 of their enrollment at the technical and vocational institute
19 if they maintain residency in New Mexico, maintain a grade
20 point average of 2.5 or higher on a 4.0 scale during the first
21 semester of full-time enrollment at the institute and continue
22 to maintain a grade point average of 2.5 or higher on a 4.0
23 scale and attend the institute full time during the regular
24 academic year.

25 ~~[G.]~~ D. The ~~[commission on]~~ higher education

1 department shall prepare guidelines setting forth explicit
2 student continuing eligibility criteria and guidelines for
3 administration of the tuition scholarship program. Guidelines
4 shall be distributed to the boards of technical and vocational
5 institutes to enable a uniform availability of the resident
6 student tuition scholarships."

7 Section 4. EFFECTIVE DATE.--The effective date of the
8 provisions of this act is July 1, 2007.

9 - 9 -

HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING A GROSS RECEIPTS TAX DEDUCTION
FOR INDIAN HEALTH SERVICE PAYMENTS FOR MEDICAL AND HEALTH
SERVICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-9-77.1 NMSA 1978 (being Laws 1998,
Chapter 96, Section 1, as amended) is amended to read:

"7-9-77.1. DEDUCTION--GROSS RECEIPTS TAX--CERTAIN MEDICAL
AND HEALTH CARE SERVICES.--

A. Receipts from payments by the United States
government or any agency thereof for provision of medical and
other health services by medical doctors, osteopathic
physicians and podiatrists or of medical, other health and
palliative services by hospices or nursing homes to medicare
beneficiaries pursuant to the provisions of Title 18 of the

.163150.1

1 federal Social Security Act may be deducted from gross
2 receipts.

3 B. Receipts from payments by a third-party
4 administrator of the federal TRICARE program for provision of
5 medical and other health services by medical doctors and
6 osteopathic physicians to covered beneficiaries may be deducted
7 from gross receipts.

8 C. Receipts from payments by or on behalf of the
9 Indian health service of the United States department of health
10 and human services for provision of medical and other health
11 services by medical doctors and osteopathic physicians to
12 covered beneficiaries may be deducted from gross receipts.

13 ~~[G.]~~ D. Receipts from payments by the United States
14 government or any agency thereof for medical services provided
15 by a clinical laboratory to medicare beneficiaries pursuant to
16 the provisions of Title 18 of the federal Social Security Act
17 may be deducted from gross receipts. ~~[pursuant to the~~
18 ~~following schedule:~~

19 ~~(1) from July 1, 2003 through June 30, 2004,~~
20 ~~thirty-three and one-third percent of the receipts may be~~
21 ~~deducted;~~

22 ~~(2) from July 1, 2004 through June 30, 2005,~~
23 ~~sixty-six and two-thirds percent of the receipts may be~~
24 ~~deducted; and~~

25 ~~(3) after June 30, 2005, one hundred percent~~

1 ~~of the receipts may be deducted.~~

2 ~~D.~~ E. Receipts from payments by the United States
3 government or any agency thereof for medical, other health and
4 palliative services provided by a home health agency to
5 medicare beneficiaries pursuant to the provisions of Title 18
6 of the federal Social Security Act may be deducted from gross
7 receipts. ~~[pursuant to the following schedule:~~

8 ~~(1) from July 1, 2003 through June 30, 2004,~~
9 ~~thirty-three and one-third percent of the receipts may be~~
10 ~~deducted;~~

11 ~~(2) from July 1, 2004 through June 30, 2005,~~
12 ~~sixty-six and two-thirds percent of the receipts may be~~
13 ~~deducted; and~~

14 ~~(3) after June 30, 2005, one hundred percent~~
15 ~~of the receipts may be deducted.~~

16 ~~E.~~ F. For the purposes of this section:

17 (1) "clinical laboratory" means a laboratory
18 accredited pursuant to 42 USCA 263a;

19 (2) "home health agency" means a for-profit
20 entity that is licensed by the department of health and
21 certified by the federal centers for medicare and medicaid
22 services as a home health agency and certified to provide
23 medicare services;

24 (3) "hospice" means a for-profit entity
25 licensed by the department of health as a hospice and certified

1 to provide medicare services;

2 (4) "medical doctor" means a person licensed
3 as a physician to practice medicine pursuant to the provisions
4 of the Medical Practice Act;

5 (5) "nursing home" means a for-profit entity
6 licensed by the department of health as a nursing home and
7 certified to provide medicare services;

8 (6) "osteopathic physician" means a person
9 licensed as an osteopathic physician pursuant to the provisions
10 of Chapter 61, Article 10 NMSA 1978;

11 (7) "podiatrist" means a person licensed as a
12 podiatrist pursuant to the provisions of the Podiatry Act; and

13 (8) "TRICARE program" means the program
14 defined in 10 U.S.C. 1072(7)."

15 Section 2. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2007.

HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO TRADE PRACTICES; CREATING A VOLUNTARY CERTIFICATION
MARK PROGRAM FOR INDIAN ARTS AND CRAFTS; CREATING AN ADVISORY
BOARD; PROVIDING POWERS AND DUTIES; CREATING A FUND;
PRESCRIBING PENALTIES; AMENDING AND ENACTING SECTIONS OF THE
NMSA 1978; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-33-6 NMSA 1978 (being Laws 1959,
Chapter 133, Section 4, as amended) is amended to read:

"30-33-6. INQUIRY AS TO PRODUCER--DUTY OF INQUIRY--
ELECTION TO LABEL AUTHENTIC INDIAN ARTS AND CRAFTS.--

A. It is the duty of every person selling or
offering for sale a product that is represented to be authentic
Indian arts or crafts to make due inquiry of [his] suppliers
concerning the true nature of the materials, product design and

1 process of manufacture to determine whether the product may be
2 lawfully represented as authentic Indian arts or crafts.

3 B. Each person may elect to label, affix a
4 certification mark or otherwise clearly and conspicuously
5 disclose as authentic Indian arts and crafts all articles that
6 are authentic Indian arts and crafts in accordance with the
7 Indian Arts and Crafts Sales Act and regulations adopted
8 pursuant to that act.

9 C. Consistent with the purposes of the Indian Arts
10 and Crafts Sales Act, regulations adopted under that act may
11 specify designations other than "authentic Indian arts and
12 crafts", including a designation such as "Indian crafted", for
13 authorized labeling as Indian arts and crafts."

14 Section 2. A new section of the Indian Arts and Crafts
15 Sales Act, Section 30-33-6.1 NMSA 1978, is enacted to read:

16 "30-33-6.1. [NEW MATERIAL] CERTIFICATION MARK PROGRAM--
17 FEES.--

18 A. The cultural affairs department shall establish
19 a certification mark program for authentic Indian arts and
20 crafts created or sold in New Mexico and shall promulgate
21 regulations establishing standards for products entitled to
22 have affixed a certification mark. The certification mark
23 program is a voluntary program through which a person may
24 attach a certification mark to authentic Indian arts and crafts
25 that satisfy specified design and production standards.

.163287.3

1 B. Persons applying for the right to participate in
2 the certification mark program may be required to pay an
3 application fee and an annual registration fee. The
4 application fee shall not exceed two hundred fifty dollars
5 (\$250). The annual registration fee shall not exceed one
6 hundred dollars (\$100)."

7 Section 3. A new section of the Indian Arts and Crafts
8 Sales Act, Section 30-33-6.2 NMSA 1978, is enacted to read:

9 "30-33-6.2. [NEW MATERIAL] INDIAN ARTS AND CRAFTS
10 ADVISORY BOARD.--

11 A. The "Indian arts and crafts advisory board" is
12 created to advise the cultural affairs department regarding the
13 implementation of the certification mark program. Staff for
14 the board shall be provided by the department.

15 B. The board consists of seven members as follows:

16 (1) an Indian qualified to determine the
17 authenticity of jewelry or metalwork as being Indian handmade
18 or Indian crafted;

19 (2) an Indian qualified to determine the
20 authenticity of beadwork or quillwork as being Indian handmade
21 or Indian crafted;

22 (3) an Indian qualified to determine the
23 authenticity of pottery as being Indian handmade or Indian
24 crafted;

25 (4) an Indian qualified to determine the

1 authenticity of textiles or fiber arts as being Indian handmade
2 or Indian crafted;

3 (5) an Indian qualified to determine the
4 authenticity of basketry as being Indian handmade or Indian
5 crafted;

6 (6) an Indian qualified to determine the
7 authenticity of painting, drawing or other graphic arts as
8 being Indian handmade or Indian crafted; and

9 (7) an Indian qualified to determine the
10 authenticity of carving or sculpture as being Indian handmade
11 or Indian crafted.

12 C. The secretary of cultural affairs may seek
13 advice from other persons experienced in producing or
14 determining the authenticity of authentic Indian arts and
15 crafts as deemed necessary to determine appropriate standards
16 for the certification mark program established pursuant to
17 Section 30-33-6.1 NMSA 1978.

18 D. Members of the board shall be appointed by and
19 serve at the pleasure of the governor.

20 E. The board shall annually elect a chair and other
21 officers as it deems necessary. A simple majority of the board
22 members currently serving constitutes a quorum.

23 F. The board shall hold at least one regular
24 meeting each year and shall meet at such other times as deemed
25 necessary by the chair, a majority of board members or the

.163287.3

1 secretary of cultural affairs.

2 G. Members of the board are entitled to receive per
3 diem and mileage as provided in the Per Diem and Mileage Act
4 and shall receive no other compensation, perquisite or
5 allowance."

6 Section 4. A new section of the Indian Arts and Crafts
7 Sales Act, Section 30-33-6.3 NMSA 1978, is enacted to read:

8 "30-33-6.3. [NEW MATERIAL] INDIAN ARTS AND CRAFTS FUND
9 ESTABLISHED.--The "Indian arts and crafts fund" is created in
10 the state treasury. The fund consists of money received by the
11 cultural affairs department through the certification mark
12 program, legislative appropriations to the fund, gifts, grants,
13 donations and bequests. Money in the fund shall not revert to
14 any other fund at the end of a fiscal year. The fund shall be
15 administered by the cultural affairs department and money in
16 the fund is appropriated to the cultural affairs department to
17 implement the certification mark program. Money in the fund
18 shall be disbursed on warrants signed by the secretary of
19 finance and administration pursuant to vouchers signed by the
20 secretary of cultural affairs or the secretary's authorized
21 representative."

22 Section 5. Section 30-33-7 NMSA 1978 (being Laws 1973,
23 Chapter 163, Section 5, as amended) is amended to read:

24 "30-33-7. UNLAWFUL ACTS.--It is unlawful for any person
25 to:

.163287.3

1 A. sell or offer for sale any products represented
2 to be Indian handmade or authentic Indian arts and crafts
3 unless such products are in fact Indian handmade or authentic
4 Indian arts and crafts;

5 B. sell or offer for sale any products represented
6 to be Indian crafted unless such products are in fact Indian
7 crafted;

8 C. represent that any Indian arts and crafts
9 product is made of a material, including natural material,
10 unless it is made of that material;

11 D. fail to disclose in writing that any Indian arts
12 and crafts product is made of treated material, reconstructed
13 material or synthetic material;

14 E. solicit or buy for resale as authentic Indian
15 arts and crafts any products that are known in fact not to be
16 authentic; [✗]

17 F. affix a certification mark to any products
18 represented as authentic Indian arts and crafts that do not
19 satisfy design and production standards established by the
20 certification mark program of the cultural affairs department;
21 or

22 [F-] G. prepare, disseminate or otherwise engage in
23 any unfair or deceptive trade practice, including any false,
24 misleading or deceptive advertising, or any unconscionable
25 trade practice, regarding Indian arts or crafts. For the

1 purpose of this subsection, "unfair or deceptive trade
2 practice" and "unconscionable trade practice" mean "unfair or
3 deceptive trade practice" and "unconscionable trade practice"
4 as those terms are defined in Section 57-12-2 NMSA 1978."

5 Section 6. Section 30-33-11 NMSA 1978 (being Laws 1977,
6 Chapter 334, Section 8, as amended) is amended to read:

7 "30-33-11. ADMINISTRATIVE REGULATIONS.--The attorney
8 general, [~~and the New Mexico office of~~] the Indian affairs
9 department and the cultural affairs department are authorized
10 jointly to promulgate necessary regulations, pursuant to the
11 Administrative Procedures Act, to further the purpose and
12 implement the provisions of the Indian Arts and Crafts Sales
13 Act."

14 Section 7. TEMPORARY PROVISION.--The cultural affairs
15 department shall report to the appropriate interim legislative
16 committee no later than October 1, 2007 on the status of
17 implementation of a certification mark program.

18 Section 8. APPROPRIATION.--Three hundred thousand dollars
19 (\$300,000) is appropriated from the general fund to the
20 cultural affairs department for expenditure in fiscal year 2008
21 and subsequent fiscal years to implement the certification mark
22 program. Any unexpended or unencumbered balance remaining at
23 the end of a fiscal year shall not revert to the general fund.

HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE

ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS COMMITTEE
AND THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO FINANCIAL TRANSACTIONS; PROVIDING FOR THE
LIMITATION OF FEES AND REGULATION OF PAYDAY LOANS; AMENDING,
REPEALING AND ENACTING CERTAIN PROVISIONS OF THE NEW MEXICO
SMALL LOAN ACT OF 1955.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 58-15-2 NMSA 1978 (being Laws 1955,
Chapter 128, Section 2, as amended) is amended to read:

"58-15-2. DEFINITIONS.--The following words and terms
when used in the New Mexico Small Loan Act of 1955 [~~shall~~] have
the following meanings unless the context clearly requires a
different meaning. The meaning ascribed to the singular form
[~~shall apply~~] applies also to the plural:

[A. ~~"person" shall include individuals, copartners,
associations, trusts, corporations and any other legal entity;~~]

1 A. "consumer" means a person who enters into a loan
2 agreement and receives the loan proceeds in New Mexico;

3 B. "debit authorization" means an authorization
4 signed by a consumer to electronically transfer or withdraw
5 funds from the consumer's account for the specific purpose of
6 repaying a loan;

7 C. "department" or "division" means the financial
8 institutions division of the regulation and licensing
9 department;

10 D. "director" means the director of the division;

11 E. "installment loan" means a loan that is to be
12 repaid in a minimum of four successive substantially equal
13 payment amounts to pay off a loan in its entirety with a period
14 of no less than one hundred twenty days to maturity;

15 [B.] F. "license" [shall mean] means a permit
16 issued under the authority of the New Mexico Small Loan Act of
17 1955 to make loans and collect charges therefor strictly in
18 accordance with the provisions of [~~the New Mexico Small Loan~~
19 ~~Act of 1955~~] that act at a single place of business. It shall
20 constitute and shall be construed as a grant of a [~~revokable~~]
21 revocable privilege only to be held and enjoyed subject to all
22 the conditions, restrictions and limitations contained in the
23 New Mexico Small Loan Act of 1955 and lawful regulations
24 promulgated by the director [~~of the financial institutions~~
25 ~~division~~] and not otherwise;

 [G.] G. "licensee" [shall mean] means a person to

whom one or more licenses have been issued [~~hereunder~~] pursuant
1 to the New Mexico Small Loan Act of 1955 upon [~~their~~] the
2 person's written application electing to become a licensee and
3 consenting to exercise the privilege of a licensee solely in
4 conformity with the New Mexico Small Loan Act of 1955 and the
5 lawful regulations promulgated by the director [~~of the~~
6 ~~financial institutions division hereunder~~] under that act and
7 whose name [~~or names appear~~] appears on the face of the
8 license;

9 ~~D. "director" means the director of the financial~~
10 ~~institutions division of the commerce and industry and~~
11 ~~licensing department;~~

12 ~~E. "department" means the financial institutions~~
13 ~~division of the commerce and industry department;]~~

14 H. "payday loan" means a loan in which the licensee
15 accepts a personal check or debit authorization tendered by the
16 consumer and agrees in writing to defer presentment of that
17 check or use of the debit authorization until the consumer's
18 next payday or another date agreed to by the licensee and the
19 consumer and:

20 (1) includes any advance of money or
21 arrangement or extension of credit whereby the licensee, for a
22 fee, finance charge or other consideration:

23 (a) accepts a dated personal check or
24 debit authorization for the specific purpose of repaying a
25 payday loan;

1 (b) agrees to hold a dated personal
2 check or debit authorization for a period of time prior to
3 negotiating or depositing the personal check or debit
4 authorization; or

5 (c) pays to the consumer, credits to the
6 consumer's account or pays another person on behalf of the
7 consumer the amount of an instrument actually paid or to be
8 paid pursuant to the New Mexico Small Loan Act of 1955; but

9 (2) does not include:

10 (a) an overdraft product or service
11 offered by a banking corporation, savings and loan association
12 or credit union; and

13 (b) installment loans;

14 I. "payday loan product" means a payday loan, a
15 renewed payday loan and a payment plan pursuant to Section
16 58-15-36 NMSA 1978;

17 J. "person" includes an individual, copartner,
18 association, trust, corporation and any other legal entity;

19 K. "renewed payday loan" means a loan in which a
20 consumer pays in cash the administrative fee payable under a
21 payday loan agreement and refinances all or part of the unpaid
22 principal balance of an existing payday loan with a new payday
23 loan from the same licensee. A "renewed payday loan" includes
24 a transaction in which a consumer pays off all or part of an
25 existing payday loan with the proceeds of a payday loan from
the same licensee; and

1 L. "simple interest" means a method of calculating
2 interest in which the amount of interest is calculated based on
3 the annual interest rate disclosed in the loan agreement and is
4 computed only on the outstanding principal balance of the
5 loan."

6 Section 2. Section 58-15-3 NMSA 1978 (being Laws 1955,
7 Chapter 128, Section 3, as amended) is amended to read:

8 "58-15-3. APPLICABILITY OF ACT--EXEMPTIONS--EVASIONS--
9 PENALTY.--

10 A. ~~[No]~~ A person shall not engage in the business
11 of lending in amounts of two thousand five hundred dollars
12 (\$2,500) or less for a loan without first having obtained a
13 license from the director. Nothing contained in this
14 subsection shall restrict or prohibit a licensee under the New
15 Mexico Small Loan Act of 1955 from making loans in any amount
16 under the New Mexico Bank Installment Loan Act of 1959 in
17 accordance with the provisions of Section 58-7-2 NMSA 1978.

18 B. Nothing in the New Mexico Small Loan Act of 1955
19 shall apply to a person making individual advances of two
20 thousand five hundred dollars (\$2,500) or less under a written
21 agreement providing for a total loan or line of credit in
22 excess of two thousand five hundred dollars (\$2,500) ~~[for which~~
23 ~~real estate is pledged as collateral]~~.

24 C. ~~[Any]~~ A banking corporation, savings and loan
25 association or credit union operating under the laws of the
 United States or of ~~[New Mexico]~~ a state shall be exempt from

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1 the licensing requirements of the New Mexico Small Loan Act of
2 1955, nor shall that act apply to ~~[any]~~ business transacted by
3 any ~~[such]~~ person under the authority of and as permitted by
4 any such law nor to any bona fide pawnbroking business
5 transacted under a pawnbroker's license nor to bona fide
6 commercial loans made to dealers upon personal property held
7 for resale. Nothing contained in the New Mexico Small Loan Act
8 of 1955 shall be construed as abridging the rights of any of
9 those exempted from the operations of that act from contracting
10 for or receiving interest or charges not in violation of ~~[any]~~
11 an existing applicable statute of this state.

12 D. The provisions of Subsection A of this section
13 apply to ~~[any]~~:

14 (1) a person ~~[owning any]~~ who owns an
15 interest, legal or equitable, in the business or profits of
16 ~~[any]~~ a licensee and whose name does not specifically appear on
17 the face of the license, except a stockholder in a corporate
18 licensee; and

19 ~~[to any]~~ (2) a person who seeks to evade its
20 application by any device, subterfuge or pretense whatsoever,
21 including but not thereby limiting the generality of the
22 foregoing:

23 (a) the loan, forbearance, use or sale
24 of credit (as guarantor, surety, endorser, comaker or
25 otherwise), money, goods or things in action;

(b) the use of collateral or related

1 sales or purchases of goods or services or agreements to sell
2 or purchase, whether real or pretended;

3 (c) receiving or charging compensation
4 for goods or services, whether or not sold, delivered or
5 provided; and

6 (d) the real or pretended negotiation,
7 arrangement or procurement of a loan through any use or
8 activity of a third person, whether real or fictitious.

9 E. ~~[Any]~~ A person, copartnership, trust
10 ~~[and the trustees or beneficiaries thereof]~~ or a trustee or
11 beneficiary thereof or an association or corporation ~~[and the~~
12 ~~several members, officers, directors, agents and employees~~
13 ~~thereof who violate or participate]~~ or a member, officer,
14 director, agent or employee thereof who violates or
15 participates in the violation of ~~[any]~~ a provision of
16 Subsection A of this section is guilty of a petty misdemeanor
17 and upon conviction shall be sentenced pursuant to the
18 provisions of Subsection B of Section 31-19-1 ~~[B]~~ NMSA 1978.
19 ~~[Any]~~ A contract or loan in the making or collection of which
20 ~~[any]~~ an act is done that violates Subsection A or D of this
21 section is void and the lender has no right to collect, receive
22 or retain any principal, interest or charges whatsoever."

23 Section 3. Section 58-15-5 NMSA 1978 (being Laws 1978,
24 Chapter 6, Section 1, as amended) is amended to read:

25 "58-15-5. LICENSES--INVESTIGATION OF APPLICATION--
ISSUANCE--DENIAL--ISSUANCE OF RENEWAL LICENSE--DENIAL OF

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RENEWAL LICENSE--FITNESS AND CHARACTER OF APPLICANT--LICENSE
FEES--LICENSEE BOUND BY ACT.--

A. Upon the filing of an application, whether it is an original or a renewal, the director shall investigate the facts concerning the application and the requirements provided in this section.

~~[Any]~~ B. An applicant for license, upon written notice to do so by the director, shall, within twenty days after service of the notice, furnish in writing, under oath, to the director ~~[any and]~~ all additional information required by the director that may be relevant or, in the opinion of the director, helpful ~~[to him]~~ in conducting ~~[his]~~ the investigation.

C. Failure to comply with the director's requirement for supplemental information or the willful furnishing of false information is sufficient ~~[ground]~~ grounds for denial of license.

D. False or misleading information willfully and intentionally furnished to the director prior to the issuance of any license is ~~[ground]~~ grounds for suspension or revocation of any license in accordance with the procedures for suspension or revocation of license in the New Mexico Small Loan Act of 1955.

E. The director shall grant or deny each application for an original license within sixty days from the filing of the application with the required information and

fees, unless the period is extended by written agreement
between the applicant and the director.

[B.] F. In the event the director finds that:

(1) ~~that~~ the financial responsibility,
character and general fitness of the applicant for an original
license and of the individual members and beneficiaries
thereof, if the applicant is a copartnership, association or
trust, and of the officers and directors thereof, if the
applicant is a corporation, are such as to command the
confidence of the public and to warrant belief that the
business will be operated lawfully, honestly, fairly and
efficiently within the declared purposes and spirit of the New
Mexico Small Loan Act of 1955;

(2) ~~that~~ allowing the applicant to engage in
business will promote the convenience and advantage of the
community in which the business of the applicant is to be
conducted; and

(3) ~~that~~ the applicant has available for
operation of the business at the specified location cash or its
equivalent, convertible securities or receivables of thirty
thousand dollars (\$30,000) or any combination thereof;
[he] the director shall enter an order granting the
application, file [his] the director's findings and, upon
payment of the license fee of five hundred dollars (\$500),
issue and deliver a license to the applicant.

[C.] G. If the director does not make the findings

1 enumerated in Subsection [B] F of this section, [~~he~~] the
2 director shall enter an order denying the application, notify
3 the applicant of the denial and retain the application fee.
4 Within thirty days after the entry of such an order, [~~he~~] the
5 director shall prepare written findings and shall deliver a
6 copy to the applicant.

7 [~~D.~~] H. A written application for license renewal
8 [~~licenses~~] shall be filed on or before March 31 of each year,
9 and thereupon the director shall investigate the facts and
10 review [~~his~~] the files of examinations of the applicant made by
11 [~~his~~] the director's office and of complaints filed by
12 borrowers, if any. The director shall deliver a renewal
13 license to the applicant if [~~he~~] the director finds that:

14 (1) [~~that~~] no valid complaints of violations
15 or abuses of the New Mexico Small Loan Act of 1955 or of the
16 regulations of the director promulgated under that act have
17 been filed by borrowers;

18 (2) [~~that his~~] examinations of the affairs of
19 the applicant indicate that the business has been conducted and
20 operated lawfully and efficiently within the declared purposes
21 and spirit of the New Mexico Small Loan Act of 1955; and

22 (3) [~~that~~] the financial responsibility,
23 experience and general fitness and character of the applicant
24 remain such as to command the confidence of the public and to
25 warrant the belief that the business will continue to be
operated lawfully and efficiently within the purposes and

1 spirit of the New Mexico Small Loan Act of 1955. [~~he shall~~
2 ~~deliver a renewal license to the applicant.~~

3 E.] I. If the director does not make the findings
4 enumerated in Subsection [D] H of this section, [~~he~~] the
5 director may grant a temporary extension of the license not
6 exceeding sixty days pending a hearing; shall enter an order
7 fixing a date for hearing upon the application; shall notify
8 the licensee thereof, specifying the particular complaints,
9 violations or abuses or other reasons for [~~his~~] the director's
10 contemplated refusal to renew the license; and shall afford to
11 the applicant an opportunity to be heard. At the hearing, the
12 director shall produce [~~his~~] evidence to establish the truth of
13 the charges of violation or other grounds specified in the
14 notice, and the applicant shall be accorded the right to
15 produce evidence or other matters of defense. If after the
16 hearing the director finds that the complaints of violations or
17 other grounds specified in the notice are not well-founded,
18 [~~he~~] the director shall issue the renewal license. If [~~he~~] the
19 director finds that the complaints of violations or other
20 grounds are well-founded, [~~he~~] the director shall enter an
21 order denying the renewal application and notify the applicant
22 of the denial, returning the renewal license fee tendered with
23 the application. Within thirty days after the entry of such an
24 order, [~~he~~] the director shall prepare written findings and
25 shall deliver a copy of the findings to the applicant. The
order shall be subject to review as provided in Section

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58-15-25 NMSA 1978. The court in its discretion and upon
proper showing may order a temporary extension of the license
pending disposition of the review proceedings.

[F.] J. In connection with the determination of
fitness and character of an applicant ~~[under]~~ pursuant to the
provisions of this section, the fact that the applicant or
licensee is a member of or interested financially in, connected
or affiliated with, controls or is controlled by or owns or is
owned by other corporations, partnerships, trusts, associations
or other legal entities engaged in the lending of money whose
policies and practices as to rates of interest, charges and
fees and general dealing with borrowers are questionable or
would constitute violation of the general usury statutes of
this state or of the declared purposes and spirit of the New
Mexico Small Loan Act of 1955 shall be given such consideration
and weight as the director determines.

[G.] K. At the time of issuance of original license
and each annual renewal thereof, the licensee for each licensed
office shall pay to the director as a license fee for the
period covered by the license the sum of five hundred dollars
(\$500) as a minimum, plus an additional seventy-five cents
 (\$.75) for each one thousand dollars (\$1,000) or fraction
thereof of loans outstanding as of December 31 next preceding,
as shown on the applicant's annual report. In the event that
the application for annual renewal of the license is
delinquent, the licensee shall also pay a delinquency fee of

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1 ten dollars (\$10.00) per day for each day the licensee is
2 delinquent in filing the application for renewal.

3 [H.—Each] L. A licensee by accepting [~~any~~] a
4 license that is issued or renewed or by continuing to operate
5 [~~any~~] a licensed office under the New Mexico Small Loan Act of
6 1955 shall by such action be deemed to have consented to be
7 bound by the lawful provisions of that act and all lawful
8 requirements, regulations and orders of the director
9 promulgated or issued pursuant to any authorization granted in
10 that act."

11 Section 4. Section 58-15-9 NMSA 1978 (being Laws 1955,
12 Chapter 128, Section 9, as amended) is amended to read:

13 "58-15-9. EXAMINATION OF LICENSEE'S BOOKS AND RECORDS--
14 WITNESSES.--

15 A. At least once each year, the director or [~~his~~
16 ~~duly~~] the director's authorized representative shall make an
17 examination of the place of business of each licensee and [~~such~~
18 ~~of~~] the loans, transactions, books, papers and records of the
19 licensee insofar as they pertain to the business licensed under
20 the New Mexico Small Loan Act of 1955 as [~~he~~] the director may
21 deem necessary. The licensee shall pay to the [~~commissioner~~]
22 director for such annual examination a fee of two hundred
23 dollars (\$200).

24 B. Within a reasonable time after the completion of
25 an examination of a licensed office, the director shall mail to
the licensee a copy of the report of the examination, together

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1 with any comments, exceptions, objections or criticisms of the
2 director concerning the conduct of the licensee and the
3 operation of the licensed office.

4 ~~[B.]~~ C. For the purpose of discovering violations
5 of the New Mexico Small Loan Act of 1955 or of securing
6 information lawfully required under that act, the director or
7 ~~[his duty]~~ the director's authorized representative may at any
8 time investigate the business and examine the books, accounts,
9 papers and records used therein, including income tax returns
10 or other reports filed in the office of the director of the
11 revenue processing division of the taxation and revenue
12 department of:

13 (1) any licensee;

14 (2) any other person engaged in the business
15 described in Subsection A of Section 58-15-3 NMSA 1978 or
16 participating in such business as principal, agent, broker or
17 otherwise; and

18 (3) any person whom the director has
19 reasonable cause to believe is violating any provision of ~~[that~~
20 ~~act]~~ the New Mexico Small Loan Act of 1955, whether the person
21 claims to be within the authority or beyond the scope of that
22 act.

23 D. For the purposes of this section, ~~[any]~~ a person
24 who advertises, solicits or ~~[holds himself out]~~ makes any
25 representation as being willing to make loan transactions in
any amount, except persons, financial institutions or lending

1 agencies operating under charters or licenses issued by ~~[any]~~ a
2 state or federal agency or under any special statute, shall be
3 subject to investigation under the New Mexico Small Loan Act of
4 1955 and shall be presumed to be engaged in the business
5 described in Subsection A of Section 58-15-3 NMSA 1978 as to
6 any loans of two thousand five hundred dollars (\$2,500) or
7 less.

8 ~~[G.]~~ E. To facilitate the examinations and
9 investigations by the director and fully disclose the
10 operations and methods of operation of each licensed office,
11 the licensee shall, in each licensed office, keep on file as
12 part of the records of the office all office manuals,
13 communications or directives containing statements of loan
14 policy to office managers and employees. If the licensee is an
15 individual, corporation, trust or association, the licensee
16 shall keep in at least one office for information of the
17 director a record of the several individuals, firms,
18 beneficiaries of any trust and corporations deriving or
19 receiving any part of the benefits, net income or profits from
20 the operation of the licensee within New Mexico.

21 ~~[D.]~~ F. For the purposes of this section, the
22 director or ~~[his duty]~~ the director's authorized representative
23 shall have and be given free access to the offices and places
24 of business, files, safes and vaults of all licensees and shall
25 have authority to require the attendance of any person and to
examine ~~[him]~~ the person under oath relative to such loans or

business or to the subject matter of any examination,
1 investigation or hearing as provided in the New Mexico Small
2 Loan Act of 1955. Notices to appear before the director for
3 examination under oath may be served by registered mail. If
4 the party notified to appear is the licensee, any person named
5 on the face of the license being investigated or any agent,
6 employee or manager participating in the licensee's business
7 and ~~[he]~~ the party fails to appear for examination or refuses
8 to answer questions submitted, the director may, forthwith and
9 without further notice to the licensee, suspend the license
10 involved pending compliance with the notice. Upon failure of
11 any other person to appear or to answer questions, the director
12 may apply to and invoke the aid of any district court of New
13 Mexico in compelling the attendance and testimony of any such
14 person and the production of books, records, written
15 instruments and documents relating to the business of the
16 licensee. ~~[Any]~~ The district court whose aid is so invoked by
17 the director may, in case of contumacy or refusal to obey any
18 order of the district court issued to compel the attendance of
19 the person or the production of books, records, written
20 instruments and documents, punish the person as for contempt of
21 court.

22 ~~[E.]~~ G. The director shall prescribe rules of
23 procedure for all hearings, examinations or investigations
24 provided for in the New Mexico Small Loan Act of 1955. The
25 director is not bound by the usual common law or statutory

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1 rules of evidence or by any technical or formal rules of
2 procedure or pleading and specification of charges other than
3 as specifically provided in the New Mexico Small Loan Act of
4 1955 but may conduct hearings, examinations and investigations
5 in the manner best calculated to ascertain the substantial
6 rights of the parties interested.

7 [F.] H. The director has the power to administer
8 oaths, certify official acts and records of [~~his~~] the
9 director's office, issue subpoenas for witnesses in the name of
10 and under the seal of [~~his~~] the director's office and compel
11 the production of papers, books, accounts and documents. [~~He~~]
12 The director shall issue subpoenas at the instance of any party
13 to a hearing before the division upon payment of a fee of two
14 dollars [~~and~~] fifty cents (\$2.50) for each subpoena so issued.

15 [G.] I. Depositions may be taken with or without a
16 commission, and written interrogatories may be submitted in the
17 same manner and on the same grounds provided by law for the
18 taking of depositions or submission of written interrogatories
19 in civil actions pending in the district courts of this state.

20 [H.] J. Each witness who appears before the
21 director by [~~his~~] the director's order shall receive the fees
22 and mileage provided for witnesses in civil actions in the
23 district court. Fees and mileage shall be paid by the state,
24 but no witness subpoenaed at the instance of parties other than
25 the director is entitled to compensation from the state for
attendance or mileage unless the director certifies that [~~his~~]

the witness' testimony is material.

1 [~~I.~~] K. Whenever the director has reasonable cause
2 to believe that [~~any~~] a person is violating [~~any~~] a provision
3 of the New Mexico Small Loan Act of 1955, [~~he~~] the director
4 may, in addition to all actions provided for in that act and
5 without prejudice thereto, enter an order requiring the person
6 to desist or to refrain from the violation. An action may be
7 brought on the relation of the attorney general and the
8 director to enjoin the person from engaging in or continuing
9 the violation or from doing any act in furtherance of the
10 violation. In any such action, an order or judgment may be
11 entered awarding a preliminary or final injunction as may be
12 deemed proper. In addition to all other means provided by law
13 for the enforcement of a temporary restraining order, temporary
14 injunction or final injunction, the court in which such action
15 is brought shall have power and jurisdiction to impound and to
16 appoint a receiver for the property and business of the
17 defendants, including books, papers, documents and records
18 pertaining thereto or so much thereof as the court may deem
19 reasonably necessary to prevent further violations of the New
20 Mexico Small Loan Act of 1955 through or by means of the use of
21 the property and business. The receiver, when appointed and
22 qualified, shall have powers and duties as to custody,
23 collection, administration, winding up and liquidation of the
24 property and business as are from time to time conferred upon
25 [~~him~~] the receiver by the court."

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1 Section 5. Section 58-15-10 NMSA 1978 (being Laws 1955,
2 Chapter 128, Section 10, as amended) is amended to read:

3 "58-15-10. BOOKS AND RECORDS--ANNUAL REPORTS--ADDITIONAL
4 INFORMATION.--

5 A. Each licensee shall keep and use in [~~his~~] the
6 business such books, accounts and records in accordance with
7 sound accounting practices [~~as in the director's opinion~~] that
8 will enable [~~him~~] the director to determine whether the
9 licensee is complying with the provisions of the New Mexico
10 Small Loan Act of 1955 and with the orders and regulations
11 lawfully made by the director [~~under~~] pursuant to the
12 provisions of that act. Each licensee shall preserve the
13 books, accounts and records for at least two years after making
14 the final entry on [~~any~~] a loan recorded therein.

15 B. Each licensee shall, annually on or before March
16 31, file a report with the director giving such relevant
17 information as [~~he~~] the director may reasonably require
18 concerning the business and operations during the preceding
19 calendar year for each licensed place of business conducted by
20 the licensee within the state pursuant to the provisions of the
21 New Mexico Small Loan Act of 1955. The report shall be made
22 under oath and shall be in the form prescribed by the director.
23 A summary of the reports shall be included in the published
24 annual report of the director.

25 C. At the time of filing each annual report, at the
time of the annual examination or at any other time when [~~any~~]

1 a license is in effect, the director may, upon written notice,
2 require [~~any~~] a licensee to furnish within twenty days in
3 writing, and under oath if so specified by any written notice
4 issued and served by the director upon the licensee, [~~any and~~
5 ~~all~~] additional information as to ownership of any office;
6 operation of any office; books, records, files and papers; and
7 affiliation or relationship with any other person, firm, trust,
8 association or corporation as, in the opinion of the director,
9 may be helpful [~~to him~~] in the discharge of [~~his~~] the
10 director's official duties.

11 D. False or misleading information willfully
12 furnished to the director by [~~any~~] a licensee in [~~any~~] an
13 annual report or pursuant to [~~any~~] a notice or requirement of
14 the director is sufficient [~~ground~~] grounds for suspension and
15 revocation of license in accordance with the procedures for
16 suspension or revocation of license set forth in the New Mexico
17 Small Loan Act of 1955."

18 Section 6. Section 58-15-12 NMSA 1978 (being Laws 1955,
19 Chapter 128, Section 12, as amended) is amended to read:

20 "58-15-12. ADVERTISING [~~SCHEDULE OF CHARGES~~].--[~~A. No~~] A
21 licensee or other person subject to the New Mexico Small Loan
22 Act of 1955 shall not advertise, display, distribute or
23 broadcast or cause or permit to be advertised, displayed,
24 distributed or broadcast in any manner whatsoever [~~any~~] a
25 false, misleading or deceptive statement or representation with
 regard to the charges, terms or conditions for loans in the

1 amount or of the value of two thousand five hundred dollars
2 (\$2,500) or less. The director may require that charges or
3 rates of charge, if stated by a licensee, be stated fully and
4 clearly in such manner as ~~[he may deem]~~ the director deems
5 necessary to prevent misunderstanding ~~[thereof]~~ by prospective
6 borrowers. The director may permit or require licensees to
7 refer in their advertising to the fact that their business is
8 under state supervision, subject to conditions imposed by ~~[him]~~
9 the director to prevent ~~[any]~~ erroneous impressions as to the
10 scope or degree of protection provided by the New Mexico Small
11 Loan Act of 1955.

12 ~~[B. Each licensee shall display in each licensed~~
13 ~~place of business, in a place where it will be readily visible~~
14 ~~by borrowers, a full and accurate schedule of the rates of~~
15 ~~charges upon all classes of loans currently to be made by him,~~
16 ~~stated on a percent per annum basis and also on a percent per~~
17 ~~month basis.]"~~

18 Section 7. Section 58-15-14.1 NMSA 1978 (being Laws 1983,
19 Chapter 95, Section 2) is amended to read:

20 "58-15-14.1. CHARGES--METHOD OF COMPUTATION.--~~[Charges~~
21 ~~on]~~ The simple interest method shall be used for loans made
22 under the New Mexico Small Loan Act of 1955. Interest charges
23 shall not be paid, deducted or received in advance. [Such]
24 Interest charges shall not be compounded. However, if part or
25 all of the consideration for a loan contract is the unpaid
principal balance of a prior loan, then the principal amount

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1 payable under the loan contract may include any unpaid charges
2 [which] that have accrued within sixty days on the prior loan.
3 Such charges shall be computed on the basis of the number of
4 days actually elapsed. ~~[For the purpose of computing charges,~~
5 ~~whether at the maximum rate or less, a month shall be any~~
6 ~~period of thirty consecutive days and the rate of charge for~~
7 ~~each day shall be one-thirtieth of the monthly rate.]"~~

8 Section 8. Section 58-15-17 NMSA 1978 (being Laws 1955,
9 Chapter 128, Section 15, as amended) is amended to read:

10 "58-15-17. REQUIREMENTS FOR MAKING AND PAYING OF LOANS--
11 INCOMPLETE INSTRUMENTS--LIMITATIONS ON CHARGES AFTER JUDGMENT
12 AND INTEREST.--

13 A. Every licensee shall:

14 (1) at the time ~~[any]~~ a loan is made within
15 the provisions of the New Mexico Small Loan Act of 1955,
16 deliver to the borrower or, if there are two or more borrowers
17 on the same obligation, to one of them, a statement in English
18 or Spanish as requested by the borrower, on which shall be
19 printed a copy of Section 58-15-14.1 NMSA 1978 ~~[disclosing]~~ and
20 that discloses in clear and distinct terms:

- 21 (a) the amount of the loan;
22 (b) the date the loan was made;
23 (c) a schedule or a description of the
24 payments;
25 (d) the type of the security, if any,
for the loan;

1 (e) the name and address of the licensed
office;

2 (f) the name of the person primarily
3 obligated for the loan;

4 (g) the amount of principal;

5 (h) the agreed rate of charge stated on
6 ~~[a percent per month and]~~ a percent per year basis and the
7 amount in dollars and cents; ~~[and]~~

8 (i) all other disclosures required
9 pursuant to state and federal law; and

10 (j) other items allowable pursuant to
11 that act, so stated as to clearly show the allocation of each
12 item included;

13 (2) for each payment made on account of any
14 such loan, give to the person making it a plain and complete
15 receipt specifying the date and amount of the payment, the
16 amount applied to interest and principal and the balance
17 unpaid. When payment is made in any other manner than by the
18 borrower in person, by an agent of the borrower or by check or
19 money order, the licensee shall mail the receipt to the
20 borrower's last known address or hold the receipt for delivery
21 upon request of the borrower. A copy of all receipts shall be
22 kept on file in the office of the licensee as a part of ~~[his]~~
23 the licensee's records; and

24 (3) upon payment of the loan in full, mark
25 plainly every note and promise to pay signed by any obligor

1 with the word "paid" or "canceled" and promptly file or record
2 a release of any mortgage if the mortgage has been recorded,
3 restore any pledge and cancel and return any note and any
4 assignment given to the licensee. A licensee may mark and
5 return a copy of the note, promise to pay or any assignment if
6 the copy accurately reproduces the complete original.

7 B. ~~[No]~~ A licensee shall not take ~~[any]~~ a note or
8 promise to pay that does not disclose the amount of the loan, a
9 schedule of payments, or a description thereof, and the agreed
10 charge or rate of charge or any instrument in which blanks are
11 left to be filled in after execution.

12 C. If judgment is obtained against ~~[any]~~ a party
13 ~~[or any]~~ on a loan made ~~[under]~~ pursuant to the provisions of
14 the New Mexico Small Loan Act of 1955, neither the judgment nor
15 the loan shall carry, from the date of the judgment, ~~[any]~~
16 charges against ~~[any]~~ a party to the loan other than ~~[court]~~
17 costs, ~~[attorneys']~~ attorney fees and post-judgment interest
18 ~~[on the amount of the judgment at ten percent a year]~~ as
19 provided by law.

20 D. Any loan made under the provisions of the New
21 Mexico Small Loan Act of 1955 that is filed and approved as a
22 claim in any bankruptcy proceeding shall, from a date ninety
23 days subsequent to the date of adjudication, bear interest at
24 the rate of ten percent a year only. This limitation shall not
25 apply when the bankrupt is not discharged in bankruptcy or to
any obligation not dischargeable under the provisions of the

Bankruptcy Act presently in force or as hereafter amended.

1 E. No loan made under the provisions of the New
2 Mexico Small Loan Act of 1955 shall bear interest after ninety
3 days from the date of the death of the borrower in excess of a
4 rate of ten percent a year on the unpaid principal balance of
5 the loan.

6 F. No loan made under the provisions of the New
7 Mexico Small Loan Act of 1955 shall bear interest after twelve
8 months from the date of maturity of the loan in excess of ten
9 percent a year upon the unpaid principal balance of the loan."

10 Section 9. Section 58-15-20 NMSA 1978 (being Laws 1955,
11 Chapter 128, Section 18) is amended to read:

12 "58-15-20. FEES AND COSTS.--

13 [~~(a)~~ FILING OR RECORDING FEES] A. Notwithstanding
14 any provision of [~~this Act~~] the New Mexico Small Loan Act of
15 1955, lawful fees, if any, actually and necessarily paid out by
16 the licensee to [~~any~~] a public officer for the filing,
17 recording or releasing in [~~any~~] a public office [~~any~~] of an
18 instrument securing the loan may be charged to the borrower.

19 [~~(b)~~ ATTORNEY FEES] B. Notwithstanding any
20 provision in [~~any~~] a note or other loan contract taken or
21 received [~~under this act~~] pursuant to the provisions of the New
22 Mexico Small Loan Act of 1955, attorney fees shall not be
23 charged or collected except [~~where such~~] when the note or other
24 contract has been [~~turned~~] submitted in good faith to an
25 attorney for collection and after diligent and good faith

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1 effort to collect [~~has failed~~] on the part of the licensee has
2 failed.

3 [~~(c) COURTS COSTS Where suit is filed in any court~~
4 ~~of competent jurisdiction, court costs shall be collectable in~~
5 ~~accordance with the laws of New Mexico applicable thereto.~~

6 ~~(d) NOTARY FEES PROHIBITED]~~ C. Notary fees
7 incident to the taking of [~~any~~] a lien to secure a small loan
8 or releasing such a lien shall not be charged or collected by
9 [~~any~~] a licensee, [~~nor by any~~] an officer, agent or employee of
10 a licensee [~~nor by~~] or anyone within [~~any~~] an office, room or
11 place of business in which a small loan office is conducted.

12 D. Delinquency fees shall not exceed five cents
13 (\$.05) for each one dollar (\$1.00) of each installment more
14 than ten days in arrears; provided that the total of
15 delinquency charges on any such installment shall not exceed
16 ten dollars (\$10.00) and that only one delinquency charge shall
17 be made on any one installment regardless of the period during
18 which the installment remains unpaid."

19 Section 10. Section 58-15-23 NMSA 1978 (being Laws 1955,
20 Chapter 128, Section 21) is amended to read:

21 "58-15-23. VIOLATION OF GENERAL USURY LAWS.--The [~~wilful~~]
22 violation by [~~any~~] a licensee or by [~~any~~] an officer, manager,
23 director, trustee, executive or employee directly engaged in
24 operating a small loan office under the provisions of [~~this~~
25 Act] the New Mexico Small Loan Act of 1955 of any usury statute
of this state within [~~any~~] an office, room or place of business

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1 in which the making of loans as a licensee is solicited or
2 engaged or in association or conjunction therewith [~~shall be~~
3 ~~ground~~] is grounds for suspension and revocation of license in
4 accordance with the applicable procedures [~~applicable thereto~~
5 ~~as~~] set forth [~~herein~~] in that act."

6 Section 11. Section 58-15-30 NMSA 1978 (being Laws 1955,
7 Chapter 128, Section 28) is amended to read:

8 "58-15-30. PENALTIES--GENERAL.--Any person,
9 copartnership, trust, association or corporation and the
10 several members, beneficiaries, officers, directors, agents and
11 employees thereof who [~~shall~~] violate or participate in the
12 violation of any provision of the [~~sections of this Act shall~~
13 ~~be~~] New Mexico Small Loan Act of 1955 are guilty of a
14 misdemeanor and upon conviction [~~thereof~~] shall be [~~punishable~~]
15 punished by a fine of not less than [~~one hundred (\$100.00)~~
16 ~~dollars and not more than three hundred (\$300.00) dollars~~] five
17 hundred dollars (\$500) or more than one thousand dollars
18 (\$1,000) or by imprisonment of not more than [~~ninety (90) days~~]
19 six months or [~~by~~] both [~~such fine and imprisonment~~] in the
20 discretion of the court."

21 Section 12. A new section of the New Mexico Small Loan
22 Act of 1955, Section 58-15-32 NMSA 1978, is enacted to read:

23 "58-15-32. [NEW MATERIAL] REQUIREMENTS FOR PAYDAY
24 LOANS.--

25 A. No licensee shall make a payday loan to a
consumer if the total principal amount of the loan and fees,

1 when combined with the principal amount and fees of all of the
2 consumer's other outstanding payday loan products, exceeds
3 twenty-five percent of the consumer's gross monthly income.

4 B. Without affecting the rights of a consumer to
5 prepay a payday loan product at any time without additional
6 cost or penalty:

7 (1) no payday loan or renewed payday loan
8 shall have a stated maturity greater than thirty-five days;

9 (2) no payday loan or renewed payday loan
10 shall have a stated minimum term less than fourteen days; and

11 (3) there shall be a scheduled pay date for
12 the consumer within the term of the payday loan or renewed
13 payday loan.

14 C. A payday loan agreement and an agreement to
15 renew a payday loan shall include a provision granting the
16 consumer the right to rescind the transaction by returning in
17 cash, or through certified funds, one hundred percent of the
18 amount advanced by a licensee for a payday loan or renewed
19 payday loan no later than 5:00 p.m. on the first day of
20 business conducted by the licensee following the execution of
21 the payday loan or renewed payday loan agreement. If a
22 consumer exercises the right of rescission pursuant to this
23 subsection, no fee for the rescinded transaction shall be
24 charged to the consumer and the licensee shall not charge or
25 impose on the consumer a fee for exercising the right of
rescission pursuant to this subsection. If this subsection is

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1 applicable, any fee collected by a licensee shall be returned
2 in full to the consumer.

3 D. Any payday loan made within seven days of the
4 maturity date of a prior payday loan or renewed payday loan, by
5 the same licensee, shall automatically be treated as either:

6 (1) a renewed payday loan if the payday loan
7 has not been previously renewed; or

8 (2) a payment plan pursuant to Section
9 58-15-36 NMSA 1978 if the payday loan has been renewed.

10 E. A consumer shall be permitted to make payments
11 in any amount on a payday loan product at any time before
12 maturity without additional fees. A payment received by a
13 licensee shall first be applied to administrative fees owed
14 with any remaining amount to be applied to principal.

15 F. After each payment is made, in full or in part,
16 on a payday loan product, the licensee shall give to the person
17 making the payment a signed, dated receipt showing the amount
18 paid; the amount credited toward administrative fees and
19 principal; and the balance due on the loan.

20 G. A check written by a consumer for a payday loan
21 product shall be payable to the order of the licensee.

22 H. Prior to the consummation of a payday loan, the
23 licensee shall provide the consumer, or each consumer if there
24 is more than one, with copies of the payday loan product
25 agreement in English, Spanish or other language as determined
by the director. Consumers shall have the option to decide

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which language version of the agreement they wish to receive.

1 I. A payday loan product agreement shall not be
2 renewed, refinanced or extended without the written consent of
3 the consumer.

4 J. Licensees making payday loans shall provide the
5 consumer with an information brochure in English, Spanish or
6 other language as determined by the director. Consumers shall
7 have the option to decide which language version of the
8 brochure they wish to receive.

9 K. The disclosure of the credit terms of a payday
10 loan product shall be according to and governed by the
11 requirements of 12 CFR 226, known as "Regulation Z". The
12 definitions and requirements of that regulation and commentary
13 shall apply to payday loan products as if those provisions are
14 fully set out in this section.

15 L. A licensee shall collect on payday loan products
16 in default in a professional, fair and lawful manner. A
17 licensee that complies with the requirements and prohibitions
18 set forth in 15 U.S.C. 1692c-1692f of the federal Fair Debt
19 Collection Practices Act shall be deemed to have operated in a
20 professional, fair and lawful manner."

21 Section 13. A new section of the New Mexico Small Loan
22 Act of 1955, Section 58-15-33 NMSA 1978, is enacted to read:

23 "58-15-33. [NEW MATERIAL] PAYDAY LOAN PRODUCTS--PERMITTED
24 CHARGES.--The following provisions apply only to payday loan
25 products:

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1 A. a licensee shall not charge or receive from a
2 consumer, directly or indirectly, fees or charges except as
3 provided in this section;

4 B. upon the execution of a new payday loan, the
5 licensee may impose an administrative fee of not more than
6 fifteen dollars fifty cents (\$15.50) per one hundred dollars
7 (\$100) of principal, which fee is fully earned and
8 nonrefundable at the time a payday loan agreement is executed
9 and payable in full at the end of the term of the payday loan
10 or upon prepayment of the payday loan unless a payday loan is
11 rescinded pursuant to Subsection C of Section 58-15-32 NMSA
12 1978;

13 C. upon the execution of an agreement to renew a
14 payday loan, the licensee may impose an administrative fee of
15 fifteen dollars fifty cents (\$15.50) per one hundred dollars
16 (\$100) of principal, which fee is fully earned and
17 nonrefundable at the time a renewed payday loan agreement is
18 executed and payable in full at the end of the term of the
19 renewed payday loan or upon prepayment of a renewed payday loan
20 unless a renewed payday loan is rescinded pursuant to
21 Subsection C of Section 58-15-32 NMSA 1978;

22 D. a licensee shall not charge a consumer interest
23 on the outstanding principal owed on a payday loan product; and

24 E. if there are insufficient funds to pay a check
25 or other type of debit on the date of presentment by the
licensee, a licensee may charge a borrower a fee not to exceed

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1 fifteen dollars (\$15.00). Only one fee may be collected by a
2 licensee on a check or debit authorization. A check or debit
3 authorization request shall not be presented to a financial
4 institution by a licensee for payment more than one time unless
5 the consumer agrees in writing, after a check or other type of
6 debit has been dishonored, to one additional presentment or
7 deposit."

8 Section 14. A new section of the New Mexico Small Loan
9 Act of 1955, Section 58-15-34 NMSA 1978, is enacted to read:

10 "58-15-34. [NEW MATERIAL] PAYDAY LOAN PRODUCTS--
11 PROHIBITED ACTS.--A licensee shall not:

12 A. threaten or intimidate a consumer or threaten to
13 use or request the use of criminal process in this or another
14 state to collect on a payday loan product;

15 B. use a device or agreement that would have the
16 effect of charging or collecting more fees, charges or interest
17 than that allowed by law by entering into a different type of
18 transaction with the consumer that has that effect;

19 C. require a consumer to enter into a new payday
20 loan to pay an existing payday loan in whole or in part when
21 the existing loan can be renewed or is eligible for a payment
22 plan pursuant to Section 58-15-36 NMSA 1978;

23 D. charge a fee to cash a check representing the
24 proceeds of a payday loan product;

25 E. charge a late fee or delinquency charge if a
consumer fails to repay a payday loan product on time;

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1 F. assign or attempt to assign a consumer's
2 personal check to a third party unless for collection purposes;

3 G. use or attempt to use the check written by the
4 consumer for a payday loan product as collateral for purposes
5 other than repaying that payday loan product;

6 H. require a consumer to provide multiple checks or
7 multiple debt authorizations;

8 I. accept collateral for a payday loan product
9 other than the consumer's check or debit authorization or
10 require a consumer to provide a guaranty from another person
11 for a payday loan product;

12 J. include any of the following provisions in a
13 payday loan product agreement:

14 (1) a hold harmless clause;

15 (2) a confession of judgment clause or power
16 of attorney;

17 (3) an assignment of or order for payment of
18 wages or other compensation for services;

19 (4) a waiver of claims for punitive damages;

20 (5) a provision in which the consumer agrees
21 not to assert a claim or defense arising out of the contract;

22 (6) a waiver of a provision of the New Mexico
23 Small Loan Act of 1955;

24 (7) a waiver of the right to renew a payday
25 loan or enter into a payment plan pursuant to Section 58-15-36
NMSA 1978; or

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1 (8) a waiver of any rights secured by New
Mexico law;

2 K. make a payday loan product contingent on the
3 purchase of insurance or other goods or services;

4 L. take a check, instrument or form in which blanks
5 are left to be filled in after execution of the check,
6 instrument or form;

7 M. offer, arrange, act as an agent for or assist a
8 third party in any way in the making of a payday loan product
9 unless the third party complies with all applicable federal and
10 state laws and regulations;

11 N. knowingly enter into a payday loan product with
12 a consumer who lacks the capacity to consent;

13 O. use an agency agreement or partnership agreement
14 as a scheme or contrivance to circumvent the application of the
15 provisions of the New Mexico Small Loan Act of 1955 to a
16 consumer's payday loan product. For the purposes of this
17 subsection:

18 (1) "agency agreement" means any agreement
19 between in-state entities and a banking corporation, savings
20 and loan association or credit union operating under the laws
21 of the United States or of any state whereby the in-state agent
22 holds a predominant economic interest in the revenues generated
23 by a payday loan or renewed payday loan made to New Mexico
24 residents; and

25 (2) "partnership agreement" means any

1 agreement between in-state entities and a banking corporation,
2 savings and loan association or credit union operating under
3 the laws of the United States or of any state whereby the
4 in-state partner holds a predominant economic interest in the
5 revenues generated by a payday loan or renewed payday loan made
6 to New Mexico residents; or

7 P. finance or refinance all or any portion of any
8 fees permitted by Section 58-15-33 NMSA 1978."

9 Section 15. A new section of the New Mexico Small Loan
10 Act of 1955, Section 58-15-35 NMSA 1978, is enacted to read:

11 "58-15-35. [NEW MATERIAL] RENEWED PAYDAY LOANS.--A
12 consumer may renew a payday loan one time at the discretion of
13 the licensee, and the term of the renewed payday loan shall
14 include a scheduled pay date for the consumer. To be eligible
15 to renew a payday loan, a consumer must first pay the
16 administrative fee for the payday loan pursuant to Section
17 58-15-33 NMSA 1978."

18 Section 16. A new section of the New Mexico Small Loan
19 Act of 1955, Section 58-15-36 NMSA 1978, is enacted to read:

20 "58-15-36. [NEW MATERIAL] PAYDAY LOANS--PAYMENT PLANS.--

21 A. During the term of a payday loan that has been
22 renewed, if the renewed payday loan has not been repaid in
23 full, the licensee must offer the consumer the opportunity to
24 enter into an unsecured payment plan. The consumer may elect,
25 and a licensee shall permit, entry into a payment plan for the
unpaid principal balance of the renewed payday loan.

1 B. To be eligible to enter into a payment plan, a
2 consumer must first pay the administrative fee for the renewed
3 payday loan pursuant to Section 58-15-33 NMSA 1978. No fees,
4 charges or interest may be charged for a payment plan.

5 C. A payment plan shall provide for:

6 (1) a minimum of ninety-eight days for the
7 repayment of the unpaid principal balance of a renewed payday
8 loan; and

9 (2) relatively equal installment payments
10 based upon the consumer's schedule of pay periods."

11 Section 17. A new section of the New Mexico Small Loan
12 Act of 1955, Section 58-15-37 NMSA 1978, is enacted to read:

13 "58-15-37. [NEW MATERIAL] PAYDAY LOANS--WAITING PERIOD.--

14 A. A licensee shall not make a payday loan to a
15 consumer qualifying pursuant to the provisions of Subsection B
16 of this section until at least seven calendar days have passed
17 since the consumer completed all payment obligations pursuant
18 to all of the consumer's outstanding payday loan products.

19 B. The provisions of Subsection A of this section
20 shall apply to a consumer who within the prior twelve months:

21 (1) has had payment obligations under one or
22 more payday loan products for sixty or more consecutive days;
23 or

24 (2) has had payment obligations under one or
25 more payday loan products for ninety or more days in the
aggregate."

1 Section 18. A new section of the New Mexico Small Loan
2 Act of 1955, Section 58-15-38 NMSA 1978, is enacted to read:

3 "58-15-38. [NEW MATERIAL] PAYDAY LOANS--VERIFICATION.--

4 A. Before entering into a payday loan agreement
5 with a consumer, a licensee must use a commercially reasonable
6 method of verification to verify that the proposed loan
7 agreement is permissible under the provisions of the New Mexico
8 Small Loan Act of 1955.

9 B. No later than November 1, 2007, the director
10 shall certify that one or more consumer reporting service
11 databases are commercially reasonable methods of verification.
12 The list of consumer reporting services that the director has
13 certified as providing commercially reasonable methods of
14 verification shall be posted on the division's web site and
15 shall be mailed to each licensee by first class mail at the
16 address of record as shown on the division's licensing files.

17 C. Each licensee who provides payday loan products
18 shall comply with Subsection A of this section no later than
19 November 30, 2007.

20 D. A consumer seeking a payday loan may make a
21 direct inquiry to the consumer reporting service to request a
22 more detailed explanation of the basis for a consumer reporting
23 service's determination that the consumer is ineligible for a
24 new payday loan, and the consumer reporting service shall
25 provide a reasonable response to the consumer.

 E. In certifying a commercially reasonable method

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1 of verification, the director shall ensure the certified
2 database:

3 (1) provides real-time access through an
4 internet connection or, if real-time access through an internet
5 connection becomes unavailable due to technical problems
6 incurred by the consumer reporting service, through alternative
7 verification mechanisms, including verification by telephone;

8 (2) is accessible to the division and to
9 licensees in real time in order to ensure compliance with the
10 New Mexico Small Loan Act of 1955 regardless of where the
11 consumer requests a payday loan in New Mexico and in order to
12 provide any other information the director deems necessary;

13 (3) requires licensees to input whatever
14 information is required by the New Mexico Small Loan Act of
15 1955;

16 (4) contains a real-time regulator interface
17 that allows the division access to the consumer reporting
18 service database for the required monitoring and reporting
19 function, including the ability to determine consumer
20 eligibility and to generate reports for licensee examinations,
21 regulatory reporting and program monitoring;

22 (5) provides licensees with no more than a
23 statement that a consumer is eligible or ineligible for a new
24 payday loan and the reason for the determination;

25 (6) provides adequate safeguards to ensure
that consumer information contained in the database is kept

strictly confidential;

1 (7) does not allow the licensee to enter into
2 a payday loan that would be in violation of the New Mexico
3 Small Loan Act of 1955;

4 (8) ensures that information submitted to the
5 certified database is kept confidential and shall not be
6 released or otherwise made available to the public;

7 (9) demonstrates a working system to the
8 division prior to the certification of the database; and

9 (10) is generated by a registered consumer
10 reporting service that is subject to the applicable rules and
11 regulations applied by the federal trade commission under the
12 Fair Credit Reporting Act.

13 F. A licensee shall update the certified database
14 by inputting all information required under Paragraph (3) of
15 Subsection E of this section at the time that:

- 16 (1) a payday loan is made;
17 (2) a payday loan is renewed;
18 (3) a consumer elects to enter into a
19 repayment plan;
20 (4) a consumer's payday loan is paid in full;
21 or
22 (5) a licensee determines a payday loan is in
23 default.

24 G. A licensee may rely on the information contained
25 in the certified database as accurate and is not subject to any

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1 penalty or liability as a result of relying on inaccurate
2 information contained in the database.

3 H. In determining whether a credit reporting
4 service should be certified as a commercially reasonable method
5 of verification, the director will consider whether such credit
6 reporting service is adequately capitalized, demonstrates the
7 resources and the ability to perform the services required
8 pursuant to this section and has appropriate surety to ensure
9 performance of its obligations pursuant to this section and to
10 reasonably protect claimants in the event that actions or
11 inactions on the part of the credit reporting service results
12 in damages to licensees or consumers."

13 Section 19. A new section of the New Mexico Small Loan
14 Act of 1955, Section 58-15-39 NMSA 1978, is enacted to read:

15 "58-15-39. [NEW MATERIAL] REQUIRED DISCLOSURES WHEN
16 MAKING PAYDAY LOANS.--A licensee making payday loans or renewed
17 payday loans shall provide a notice immediately above the
18 consumer's signature on each payday loan agreement or renewed
19 payday loan agreement in at least twelve-point bold type using
20 the following language:

21 "(1) A payday loan is not intended to meet long-
22 term financial needs.

23 (2) You should use a payday loan only to meet
24 short-term cash needs.

25 (3) You will be required to pay additional
administrative fees if you renew the payday loan rather than

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pay the debt in full when due.

1 (4) A payday loan is a high-cost loan. You should
2 consider what other lower-cost loans are available to you.

3 (5) You have the right to renew your payday loan
4 one time at the discretion of the lender. If you renew a
5 payday loan and cannot fully repay that loan when due, you have
6 a right to enter into a payment plan requiring payment within a
7 minimum of ninety-eight days, in relatively equal installments,
8 based upon your scheduled pay periods. If you enter into a
9 payment plan, you will not have to pay an additional
10 administrative fee or interest on the outstanding principal
11 balance.

12 (6) If within the prior twelve months you have had
13 payment obligations under a payday loan, renewed payday loan or
14 payment plan for sixty consecutive days or ninety days in the
15 aggregate, you may not enter into a new payday loan until after
16 seven days have passed since you completed all payment
17 obligations under all of your outstanding payday loans, renewed
18 payday loans or payment plans."."

19 Section 20. A new section of the New Mexico Small Loan
20 Act of 1955, Section 58-15-40 NMSA 1978, is enacted to read:

21 "58-15-40. [NEW MATERIAL] DUTIES OF DIVISION.--

22 A. The division shall:

23 (1) maintain a list of licensees, which list
24 shall be available to interested persons and the public; and

25 (2) establish a complaint process whereby an

aggrieved consumer or other person may file a complaint against
a licensee.

B. The division shall annually provide a report to
the legislature detailing statistics, including data adequate
to obtain an accurate understanding of the practices,
demographics and legal compliance of all licensees licensed in
the state. The division shall compile an annual report by
October 1 of each year containing, at a minimum, data regarding
all payday loan products entered into in the preceding calendar
year on an aggregate basis. Annual reports shall be made
available to interested parties and the general public.
Consistent with state law, the report should include, at a
minimum, nonidentifying consumer data from the preceding year,
including:

(1) the total number and dollar amount of
payday loan products entered into in the calendar year ending
December 31 of the previous year;

(2) the total number and dollar amount of
payday loan products outstanding as of December 31 of the
previous year;

(3) the average annual percentage rate and the
average number of days of a payday loan and a renewed payday
loan during the calendar year ending December 31 of the
previous year;

(4) the number of payday loan products entered
into in the amount of one hundred dollars (\$100) or less, the

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1 number of payday loan products entered into in the amount of
2 one hundred one dollars (\$101) to five hundred dollars (\$500),
3 the number of payday loan products entered into in the amount
4 of five hundred one dollars (\$501) to one thousand dollars
5 (\$1,000), the number of payday loan products entered into in
6 the amount of one thousand one dollars (\$1,001) to one thousand
7 five hundred dollars (\$1,500), the number of payday loan
8 products in the amount of one thousand five hundred dollars
9 (\$1,500) or greater and the percentage of total payday loan
products entered into in each of those ranges;

10 (5) an estimate of the total dollar amount of
11 fees collected for payday loan products;

12 (6) the total number of payday loan products
13 entered into and the total dollar amount of the net charge-offs
14 or write-offs and of the net recoveries of licensees;

15 (7) the minimum, maximum and average dollar
16 amounts of payday loan products entered into in the calendar
17 year ending December 31 of the previous year;

18 (8) the average payday loan product amount,
19 average number of transactions and average aggregate payday
20 loan product amount entered into per consumer each year;

21 (9) the average number of days a consumer is
22 engaged in a payday loan product each year;

23 (10) an estimate of the average total fees
24 paid by a payday loan product consumer;

25 (11) the average number of payday loan

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renewals per consumer;

1 (12) the number of consumers who are eligible
2 for payment plans and the number of consumers who enter into
3 payment plans pursuant to Section 58-17-36 NMSA 1978; and

4 (13) the number of consumers who are subject
5 to the restrictions of the waiting period pursuant to Section
6 58-17-37 NMSA 1978."

7 Section 21. REPEAL.--Section 58-15-15 NMSA 1978 (being
8 Laws 1959, Chapter 201, Section 1, as amended) is repealed.

9 Section 22. SEVERABILITY.--If any part or application of
10 this act is held invalid, the remainder or its application to
11 other situations or persons shall not be affected.

12 Section 23. APPLICABILITY.--The provisions of Sections 12
13 through 20 of this act shall not apply to payday loans entered
14 into before November 1, 2007.

15 Section 24. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is November 1, 2007.

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SENATE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; ELIMINATING THE COAL SURTAX; REPEALING
THE COAL SURTAX EXEMPTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-26-6 NMSA 1978 (being Laws 1982,
Chapter 77, Section 1, as amended) is amended to read:

"7-26-6. SEVERANCE TAX ON COAL [~~SURTAX~~].--

A. The severance tax on coal is measured by the
quantity of coal severed and saved. The taxable event is sale,
transportation out of New Mexico or consumption of the coal,
whichever first occurs. Upon each short ton (two thousand
pounds) of coal severed and saved, there shall be imposed on
the severer a severance tax. [~~For the period commencing on~~
~~July 1, 1982]~~ The severance tax rate shall be [~~(+1)~~] for surface
coal, fifty-seven cents (\$.57); and [~~(+2)~~] for underground coal,

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1 fifty-five cents (\$.55).

2 ~~[B. The severance tax on coal shall be increased by~~
3 ~~a surtax, hereby imposed. The surtax shall be imposed on the~~
4 ~~unit of quantity of such product or natural resource at the~~
5 ~~following rates:~~

6 ~~(1) surface coal, sixty cents (\$.60); and~~
7 ~~(2) underground coal, fifty-eight cents~~
8 ~~(\$.58).~~

9 ~~C. The surtax rate on coal shall be increased on~~
10 ~~July 1, 1994 and on July 1 of each succeeding year by an amount~~
11 ~~equal to the product of the dollar amount of the severance tax~~
12 ~~imposed on each ton of coal by a percentage equal to the~~
13 ~~percentage rise in the producer price index for coal from the~~
14 ~~calendar year 1992 to the calendar year just prior to the year~~
15 ~~in which the surtax rates are computed, but in no case shall~~
16 ~~the surtax rate be decreased. The rates so computed shall be~~
17 ~~computed by the department in April of 1994 and in April of~~
18 ~~each year thereafter and published on or before May 1, 1994 and~~
19 ~~on or before May 1 of each year thereafter.~~

20 ~~If the producer price index for coal is substantially~~
21 ~~revised or if the base year used as an index of one hundred is~~
22 ~~changed, the department shall make an adjustment in the~~
23 ~~percentage used to compute the surtax rates that would produce~~
24 ~~results equivalent, as nearly as possible, to those that would~~
25 ~~have been obtained if the producer price index for coal had not~~

1 ~~been so revised or if the base year had not been changed. If~~
2 ~~this index ceases to become available, then a comparable index~~
3 ~~based upon changes in the price of coal shall be adopted by the~~
4 ~~department by regulation.~~

5 ~~D.]~~ B. As used in this section:

6 [~~(1)~~] ~~"producer price index for coal" means the~~
7 ~~commodity code 05-1 as reported annually by the bureau of labor~~
8 ~~statistics at the United States department of labor in their~~
9 ~~annual producer price indexes data;~~

10 ~~(2)]~~ (1) "surface coal" means coal that is
11 severed using surface mining methods;

12 [~~(3)]~~ (2) "surface mining" means the
13 extraction of coal from the earth by removing the material
14 overlying a coal seam and then removing the coal by common
15 methods, including, but not limited to, contour mining, strip
16 mining, mountain top removal mining, box cut mining, open pit
17 mining and area mining; and

18 [~~(4)]~~ (3) "underground coal" means all coal
19 that is not surface coal."

20 Section 2. REPEAL.--Section 7-26-6.2 NMSA 1978 (being
21 Laws 1990, Chapter 83, Section 1 and also Laws 1990, Chapter
22 84, Section 1, as amended) is repealed.

23 Section 3. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2007.

HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO THE TRIBAL INFRASTRUCTURE ACT; AMENDING LEGISLATIVE
OVERSIGHT DUTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 9-21-24 NMSA 1978 (being Laws 2005,
Chapter 146, Section 8) is amended to read:

"9-21-24. LEGISLATIVE OVERSIGHT--RULE REVIEW--
REPORT.--

A. Rules proposed by the board and the department
of finance and administration pursuant to the Tribal
Infrastructure Act shall be reviewed by the legislative interim
Indian affairs committee prior to approval.

B. The legislative interim Indian affairs committee
shall be briefed by the board on grant and loan proposals
submitted to the board and shall review, ~~[the list of]~~ monitor

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1 and provide assistance and advice concerning grants and loans
2 ~~[made]~~ proposed by the board.

3 C. The board shall report to the legislative
4 interim Indian affairs committee no later than October 1 of
5 each year regarding the total expenditures from the project
6 fund for the previous fiscal year, the purposes for which
7 expenditures were made, an analysis of the progress of the
8 projects funded and proposals for legislative action in the
9 subsequent legislative session."

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SENATE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO FORENSIC INVESTIGATIONS; PROHIBITING FEES FOR
SERVICES RENDERED TO TRIBAL ENTITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 24-11-2 NMSA 1978 (being Laws 1971,
Chapter 112, Section 2, as amended) is amended to read:

"24-11-2. MEETINGS--DUTIES.--

A. The board of medical [~~investigations~~]
investigators shall meet at least annually and as often as
necessary to conduct the business of the board. Additional
meetings may be called by the [~~chairman~~] chair or by a majority
of the members of the board.

B. At the first annual meeting of the board, the
members shall elect one of their number as [~~chairman~~] chair.

C. The board of medical [~~investigations~~]

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1 investigators shall formulate broad policy for the operation of
2 the office of the state medical investigator and the offices of
3 the district medical investigators, including ensuring that
4 forensic investigations and other services that are provided in
5 the ordinary and usual course of the operation of the office of
6 the state medical investigator or an office of a district
7 medical investigator are provided on an equal basis to all
8 communities in New Mexico and in all areas of the state,
9 including forensic investigations and other services that are
10 provided on land in New Mexico within the exterior boundaries
11 of an Indian nation, tribe or pueblo. The state medical
12 investigator or a district medical investigator may charge a
13 fee, not to exceed the cost of the service provided, for all
14 services provided on federal military reservations within the
15 state.

16 D. The board of medical [~~investigations~~]
17 investigators shall employ and fix the compensation of a
18 qualified state medical investigator who shall be assigned as
19 an employee of the university of New Mexico medical school [~~of~~
20 ~~medicine~~]."

21 Section 2. Section 24-11-3 NMSA 1978 (being Laws 1971,
22 Chapter 112, Section 3, as amended) is amended to read:

23 "24-11-3. STATE MEDICAL INVESTIGATOR--QUALIFICATIONS--
24 DUTIES--OFFICE.--

25 A. The state medical investigator shall be a

1 physician licensed to practice in New Mexico. Insofar as
2 practicable, the medical investigator shall be trained in the
3 fields of pathology and forensic medicine.

4 B. The state medical investigator shall maintain
5 ~~[his]~~ an office at the ~~[school of medicine at the]~~ university
6 of New Mexico medical school.

7 C. The state medical investigator shall appoint
8 district medical investigators and, where necessary, deputy
9 medical investigators who shall serve at ~~[his]~~ the state
10 medical investigator's pleasure. The state medical
11 investigator may assign deputy medical investigators to
12 districts to work under the supervision of a district medical
13 investigator. The district medical investigator shall be a
14 licensed physician. When deemed necessary by the state medical
15 investigator, ~~[he]~~ the state medical investigator may direct a
16 deputy or district medical ~~[examiner]~~ investigator to enter
17 another district for the purpose of carrying out medical
18 investigations.

19 D. Any district created by the state medical
20 investigator to be staffed by a district medical investigator
21 shall be coextensive with one or more counties.

22 E. The state medical investigator may enter into
23 agreements for services to be performed by persons in the
24 course of medical investigations.

25 F. The state medical investigator shall, subject to

1 the approval of the board of medical ~~[investigations]~~
2 investigators, promulgate rules ~~[and regulations]~~ for the
3 proper investigation of deaths occurring within this state,
4 including deaths occurring in New Mexico within the exterior
5 boundaries of an Indian nation, tribe or pueblo. Services
6 shall be provided in New Mexico within the exterior boundaries
7 of an Indian nation, tribe or pueblo on the same basis that
8 services are provided in any other part of New Mexico.

9 G. The state medical investigator shall, subject to
10 the approval of the board of medical investigators, consult
11 with tribal governments and entities to promulgate rules for
12 the proper investigation of deaths occurring in New Mexico
13 within the exterior boundaries of an Indian nation, tribe or
14 pueblo.

15 ~~[G.]~~ H. The state medical investigator shall
16 maintain records of the deaths occurring within this state
17 ~~[which]~~ that are investigated by either state or district
18 medical investigators.

19 ~~[H.]~~ I. In addition to other duties prescribed in
20 this section, the state medical investigator shall also serve
21 as the district medical investigator for Bernalillo county.

22 ~~[I.]~~ J. Funds for the operation of the state and
23 district medical investigators' offices shall be appropriated
24 to and administered by the university of New Mexico medical
25 school ~~[of medicine]~~.

1 K. The state medical investigator shall develop and
2 promulgate rules, subject to the approval of the board of
3 medical investigators, to define:

4 (1) the ordinary and usual services that are
5 provided by the office of the state medical investigator and
6 district medical investigators at no fee to the recipient
7 jurisdiction, except as otherwise permitted in this section;
8 and

9 (2) the extraordinary services that are
10 provided by the office of the state medical investigator and
11 district medical investigators for which fees shall be
12 assessed, not to exceed the cost of the service provided, and
13 shall set forth a fee schedule for provision of those services.

14 L. The office of the state medical investigator
15 shall have no authority to assess fees, except for the
16 authority granted in Subsection K of this section. Fees
17 charged to any entity in New Mexico without the express
18 authority provided in Subsection K of this section or without
19 being established pursuant to the rules approved by the board
20 of medical investigators and promulgated by the state medical
21 investigator are void."

22 Section 3. A new section of Chapter 24, Article 11 NMSA
23 1978 is enacted to read:

24 "[NEW MATERIAL] SERVICES TO TRIBAL ENTITIES--LIMITATION ON
25 FEES.--The ordinary and usual services provided by the office

1 of the state medical investigator to communities of New Mexico
2 citizens and residents living within the exterior boundaries of
3 a federally recognized Indian nation, tribe or pueblo shall be
4 provided without charge to the extent that those same services
5 are provided by the office of the state medical investigator
6 without charge to all other municipalities and counties in the
7 state located outside the exterior boundaries of a federally
8 recognized Indian nation, tribe or pueblo."

9 Section 4. EFFECTIVE DATE.--The effective date of the
10 provisions of this act is July 1, 2007.

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SENATE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO CULTURAL PROPERTIES; ESTABLISHING STATE CULTURAL
PROPERTY ON STATE OR FEDERAL LAND FOR REBURIAL OF HUMAN REMAINS
AND FUNERARY OBJECTS; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 18, Article 6 NMSA
1978 is enacted to read:

"[NEW MATERIAL] SHORT TITLE.--This act may be cited as the
"Reburial Grounds Act".

Section 2. A new section of Chapter 18, Article 6 NMSA
1978 is enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Reburial
Grounds Act:

A. "department" means the cultural affairs
department;

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1 B. "descendant group" means persons demonstrably
2 related to the remains by consanguinity, family affiliation,
3 clan or direct historical association and includes a Native
4 American nation, band, tribe or pueblo in New Mexico;

5 C. "funerary object" means an object or artifact
6 associated with a human burial;

7 D. "reburial grounds" means state or federal land
8 set aside pursuant to the Reburial Grounds Act that secures and
9 preserves unmarked graves for remains not claimed by a
10 descendant group;

11 E. "remains" means a human body, skeletal remains
12 or mummified remains discovered during construction or other
13 projects or exposed through erosion, excavation, accident or
14 other means on state, federal and private lands and includes a
15 funerary object or artifact associated with the remains; and

16 F. "state land" means property owned, controlled or
17 operated by a department, agency, institution or political
18 subdivision of the state."

19 Section 3. A new section of Chapter 18, Article 6 NMSA
20 1978 is enacted to read:

21 "[NEW MATERIAL] REMAINS DESIGNATED FOR REBURIAL.--Except
22 as otherwise designated by the department, remains shall be
23 reburied in the reburial grounds unless a descendant group that
24 demonstrates a relationship to the remains requests otherwise."

25 Section 4. A new section of Chapter 18, Article 6 NMSA

1 1978 is enacted to read:

2 "[NEW MATERIAL] DESIGNATION OF REBURIAL GROUNDS SITE.--The
3 department shall facilitate the designation of state or federal
4 land for reburial of unmarked remains not claimed by a
5 descendant group and shall:

6 A. by September 1, 2007, organize a working group
7 that includes representatives of the department, the Indian
8 affairs department and the tribal-state workgroup on
9 repatriation and sacred places to:

10 (1) recommend rules for the acquisition of
11 remains and the maintenance and preservation of the reburial
12 grounds;

13 (2) distinguish between remains that can be
14 reburied and remains that cannot; and

15 (3) establish procedures and priorities for
16 reburying remains held in state collections;

17 B. by December 30, 2008, promulgate rules for:

18 (1) platting remains placed in the reburial
19 grounds and ensuring that the information is confidential
20 pursuant to Section 18-6-11.1 NMSA 1978;

21 (2) accepting and acquiring remains and
22 coordinating activities with the state historic preservation
23 officer;

24 (3) preserving the natural environment of the
25 reburial grounds;

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1 (4) distinguishing between remains that can be
2 reburied and those that cannot;

3 (5) working with descendant groups that
4 request access to the reburial grounds for ceremonies; and

5 (6) providing for security and confidentiality
6 of the site; and

7 C. by July 1, 2009:

8 (1) accept the first remains for reburial,
9 including remains currently at the museum of New Mexico, the
10 museum of Indian arts and culture and the department;

11 (2) begin platting the reburial grounds so
12 that reburied remains are not disturbed by later burials and so
13 that the plat is confidential pursuant to Section 18-6-11.1
14 NMSA 1978; and

15 (3) provide security for the reburial
16 grounds."

17 Section 5. APPROPRIATION.--One hundred thousand dollars
18 (\$100,000) is appropriated from the general fund to the
19 cultural affairs department for expenditure in fiscal years
20 2008 and 2009 for establishing and securing the reburial
21 grounds and reburying remains. Any unexpended or unencumbered
22 balance remaining at the end of fiscal year 2009 shall revert
23 to the general fund.

HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO HIGHER EDUCATION; ALLOWING STUDENTS ATTENDING
TRIBAL COLLEGES TO RECEIVE LOTTERY TUITION SCHOLARSHIPS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 6-24-3 NMSA 1978 (being Laws 1995,
Chapter 155, Section 3, as amended) is amended to read:

"6-24-3. PURPOSES.--The purposes of the New Mexico
Lottery Act are to:

A. establish and provide for the conduct of a fair
and honest lottery for the entertainment of the public; and

B. provide the maximum amount of revenues, without
imposing additional taxes or using other state revenues, for
the purpose of providing tuition assistance to resident
undergraduates at New Mexico post-secondary educational
institutions and tribal colleges."

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1 Section 2. Section 6-24-23 NMSA 1978 (being Laws 1995,
2 Chapter 155, Section 23, as amended) is amended to read:

3 "6-24-23. LOTTERY TUITION FUND CREATED--PURPOSE.--

4 A. The "lottery tuition fund" is created in the
5 state treasury. The fund shall be administered by the
6 [~~commission on~~] higher education department. Earnings from
7 investment of the fund shall accrue to the credit of the fund.
8 Any balance in the fund at the end of any fiscal year shall
9 remain in the fund for appropriation by the legislature as
10 provided in this section.

11 B. Money in the lottery tuition fund is
12 appropriated to the [~~commission on~~] higher education department
13 for distribution to New Mexico's public post-secondary
14 educational institutions and tribal colleges to provide tuition
15 assistance for New Mexico resident undergraduates as provided
16 by law."

17 Section 3. Section 6-24-27 NMSA 1978 (being Laws 1995,
18 Chapter 155, Section 27, as amended) is amended to read:

19 "6-24-27. REVENUE AND BUDGET REPORTS--RECORDS--
20 INDEPENDENT AUDITS.--

21 A. The board shall:

22 (1) submit quarterly and annual reports to the
23 governor and the legislative finance committee disclosing the
24 total lottery revenue, prizes, commissions, ticket costs,
25 operating expenses and net revenues of the authority during the

1 reporting period and, in the annual report, describe the
2 organizational structure of the authority and summarize the
3 functions performed by each organizational division within the
4 authority;

5 (2) maintain weekly or more frequent records
6 of lottery transactions, including the distribution of lottery
7 tickets to retailers, revenue received, claims for prizes,
8 prizes paid, prizes forfeited and other financial transactions
9 of the authority; and

10 (3) use the state government fiscal year.

11 B. The board shall provide, for informational
12 purposes, to the department of finance and administration and
13 the legislative finance committee, by December 1 of each year,
14 a copy of the annual proposed operating budget for the
15 authority for the succeeding fiscal year. This budget proposal
16 shall also be accompanied by an estimate of the net revenues to
17 be deposited in the ~~[public school capital outlay fund and the]~~
18 lottery tuition fund for the current and succeeding fiscal
19 years.

20 C. The board shall contract with an independent
21 certified public accountant or firm for an annual financial
22 audit of the authority. The certified public accountant or
23 firm shall have no financial interest in any lottery
24 contractor. The certified public accountant or firm shall
25 present an audit report no later than March 1 for the prior

1 fiscal year. The certified public accountant or firm shall
2 evaluate the internal auditing controls in effect during the
3 audit period. The cost of this financial audit shall be an
4 operating expense of the authority. The legislative finance
5 committee may, at any time, order an audit of any phase of the
6 operations of the authority, at the expense of the authority,
7 and shall receive a copy of the annual independent financial
8 audit. A copy of any audit performed by the certified public
9 accountant or ordered by the legislative finance committee
10 shall be transmitted to the governor, the speaker of the house
11 of representatives, the president pro tempore of the senate and
12 the legislative finance committee."

13 Section 4. A new section of Chapter 21 NMSA 1978 is
14 enacted to read:

15 "[NEW MATERIAL] TRIBAL COLLEGES--TUITION SCHOLARSHIPS FROM
16 LOTTERY.--

17 A. As used in this section, "tribal college" means
18 a tribally, federally or congressionally chartered post-
19 secondary educational institution located in New Mexico that is
20 accredited by the north central association of colleges and
21 schools.

22 B. To the extent that funds are made available by
23 the legislature from the lottery tuition fund, the governing
24 bodies of tribal colleges may award tuition scholarships for
25 qualified resident students attending their respective

1 institutions.

2 C. The tuition scholarships authorized in this
3 section shall apply only to full-time resident students who,
4 immediately upon completion of a high school curriculum at a
5 public or accredited private New Mexico high school or upon
6 receiving a New Mexico general educational development
7 certificate, are accepted for entrance to and attend a tribal
8 college. Each tuition scholarship shall be awarded for up to
9 two consecutive years beginning the second semester of the
10 recipient's first year of enrollment if the recipient maintains
11 residency in New Mexico and maintains a grade point average of
12 2.5 or higher on a 4.0 scale during the first semester of full-
13 time enrollment.

14 D. The tuition scholarships authorized in this
15 section shall also apply to full-time resident students who:

16 (1) within one hundred twenty days of
17 completion of a high school curriculum at a public or
18 accredited private New Mexico high school, or upon receiving a
19 New Mexico general educational development certificate, begin
20 service in the United States armed forces; and

21 (2) within one hundred twenty days of
22 completion of honorable service or medical discharge from the
23 service are accepted for entrance to and attend a tribal
24 college.

25 E. The higher education department shall prepare

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1 guidelines setting forth explicit student continuing
2 eligibility criteria and guidelines for administration of the
3 tuition scholarship program at tribal colleges. Guidelines
4 shall be distributed to the governing body of each tribal
5 college to enable a uniform availability of the resident
6 student tuition scholarships. The department shall enter into
7 agreements with the tribal colleges that allow for financial
8 and programmatic audits of the resident student tuition
9 scholarship program."

10 Section 5. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2007.

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HOUSE JOINT MEMORIAL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE AND THE ECONOMIC AND RURAL
DEVELOPMENT AND TELECOMMUNICATIONS COMMITTEE

A JOINT MEMORIAL

REQUESTING THE CREATION OF A FOOD GAP TASK FORCE TO INVESTIGATE
WAYS TO IMPROVE ACCESS OF RURAL AND UNDERSERVED NEW MEXICANS TO
SOURCES OF HEALTHY AND AFFORDABLE FOODS.

WHEREAS, more than six hundred forty-seven thousand
people, one-third of New Mexico's population, live in rural
areas; and

WHEREAS, nineteen of New Mexico's thirty-three counties
are considered to have high or persistently high poverty rates;
and

WHEREAS, New Mexico is ranked first in the nation in food
insecurity and third in hunger; and

WHEREAS, low-income New Mexico families spend as much as
twenty-six percent of their annual income on food, a proportion
that is double that of the national average; and

1 WHEREAS, on average, New Mexicans living in rural
2 communities pay eighty-five dollars (\$85.00) for a bag of
3 groceries, compared to urban dwellers who pay fifty-five
4 dollars (\$55.00) for the same bag of groceries; and

5 WHEREAS, many of New Mexico's rural residents must travel
6 thirty to seventy miles to shop at a grocery store; and

7 WHEREAS, health problems caused by poor nutrition,
8 including obesity and diabetes, cost New Mexico three hundred
9 twenty-four million dollars (\$324,000,000) annually; and

10 WHEREAS, those health problems can be remedied with
11 improved nutrition through adequate access to healthy,
12 affordable and culturally appropriate food; and

13 WHEREAS, evidence suggests that many New Mexicans,
14 especially those living in rural areas, do not have adequate
15 access to healthy, affordable and culturally appropriate foods
16 because they lack access to grocery stores and transportation;
17 and

18 WHEREAS, research shows that people who do not have
19 adequate access to healthy, affordable and culturally
20 appropriate foods are likely to have diet and health problems
21 and to experience forms of food insecurity; and

22 WHEREAS, it is the policy of the state of New Mexico that
23 all New Mexicans have adequate access to healthy, affordable
24 and culturally appropriate foods;

25 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE

1 STATE OF NEW MEXICO that the governor be requested to appoint a
2 food gap task force, whose members shall include
3 representatives from the New Mexico food and agriculture policy
4 council, the New Mexico task force to end hunger, the New
5 Mexico department of agriculture, the economic development
6 department, the department of health, the human services
7 department, the Indian affairs department, the department of
8 transportation, regional councils of government, the grocery
9 industry and appropriate not-for-profit organizations; and

10 BE IT FURTHER RESOLVED that the governor be requested to
11 designate the economic development department to provide
12 administrative support to the food gap task force and that the
13 task force prepare a report to the governor and legislature
14 that provides information about the nature and scope of the
15 barriers that exist between New Mexicans and adequate access to
16 healthy, affordable and culturally appropriate foods and that
17 presents recommendations, options and steps that the public and
18 private sectors can use to improve access to healthy,
19 affordable and culturally appropriate foods in New Mexico; and

20 BE IT FURTHER RESOLVED that the food gap task force be
21 requested to investigate economic incentives and finance
22 options that the state could provide to assist grocery store
23 owners; methods of improving transportation and distribution
24 services; potential partnerships between the state and private
25 for-profit and not-for-profit entities; and ways to improve

1 coordination among existing food programs, health initiatives
2 and rural economic development programs to rebuild the
3 infrastructure of New Mexico's food and farming systems; and
4 that the task force develop an action plan that may include
5 pilot projects; and

6 BE IT FURTHER RESOLVED that the food gap task force
7 present its report to the governor and to the appropriate
8 interim legislative committees by October 30, 2007; and

9 BE IT FURTHER RESOLVED that copies of this memorial be
10 transmitted to the governor, the director of the New Mexico
11 department of agriculture, the secretary of economic
12 development, the secretary of health, the secretary of human
13 services, the secretary of Indian affairs and the secretary of
14 transportation.

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SENATE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR NATIVE AMERICAN EMERGENCY MANAGERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--One million three hundred twenty thousand dollars (\$1,320,000) is appropriated from the general fund to the Indian affairs department for expenditure in fiscal year 2008 to provide funding for emergency managers in the amount of sixty thousand dollars (\$60,000) for each of the twenty-two Indian pueblos and tribes in New Mexico. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

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SENATE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE ECONOMIC AND RURAL DEVELOPMENT AND
TELECOMMUNICATIONS COMMITTEE
AND THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR IMPROVEMENTS AT RED ROCK STATE
PARK.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Five million dollars
(\$5,000,000) is appropriated from the general fund to the
energy, minerals and natural resources department for
expenditure in fiscal year 2008 for improvements to Red Rock
state park to bring it into compliance with the federal
Americans with Disabilities Act of 1990. Any unexpended or
unencumbered balance remaining at the end of fiscal year 2008
shall revert to the general fund.

.163835.1

HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE
AND THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR A NATIVE AMERICAN INDEPENDENT
LIVING CENTER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Two hundred fifty thousand
dollars (\$250,000) is appropriated from the general fund to the
vocational rehabilitation division of the public education
department for expenditure in fiscal year 2008 for an
independent living center with sites in the Pueblo of Laguna
and the Pueblo of San Felipe to support disabled Native
Americans. The center will provide services to individuals
with disabilities in the Pueblos of Acoma, Laguna, Isleta,
Sandia, Santa Ana, San Felipe, Santo Domingo, Cochiti, Zia and
Jemez. Any unexpended or unencumbered balance remaining at the
end of fiscal year 2008 shall revert to the general fund.

.164031.2

SENATE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE ECONOMIC AND RURAL DEVELOPMENT AND
TELECOMMUNICATIONS COMMITTEE AND THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR MOBILE INTERNET TRAINING FOR THE
NAVAJO NATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Six hundred twenty-eight
thousand dollars (\$628,000) is appropriated from the general
fund to the Indian affairs department for expenditure in fiscal
years 2008 and 2009 to operate two mobile internet training
sites for Navajo Nation chapters located wholly or partially in
New Mexico in order to provide internet services and training
to the Navajo people. Any unexpended or unencumbered balance
remaining at the end of fiscal year 2009 shall revert to the
general fund.

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HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR RESEARCH AND TEACHING OF THE NAVAJO
LANGUAGE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Two hundred seventy-seven
thousand eight hundred eighty-six dollars (\$277,886) is
appropriated from the general fund to the board of regents of
the university of New Mexico for expenditure in fiscal year
2008 for a program of research and teaching of the Navajo
language. Any unexpended or unencumbered balance remaining at
the end of fiscal year 2008 shall revert to the general fund.

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SENATE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR A PROGRAM OF NATIVE AMERICAN STUDIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Two hundred eighty-five thousand dollars (\$285,000) is appropriated from the general fund to the board of regents of the university of New Mexico for expenditure in fiscal year 2008 for a Native American studies program. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

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HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR THE EXPANSION OF JEMEZ STATE
MONUMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Two million nine hundred
thousand dollars (\$2,900,000) is appropriated from the general
fund to the state monuments division of the cultural affairs
department for expenditure in fiscal year 2008 to purchase land
for the expansion of the area of Jemez state monument by
approximately seven hundred acres. Any unexpended or
unencumbered balance remaining at the end of fiscal year 2008
shall revert to the general fund.

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HOUSE BILL
48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007
INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT
MAKING AN APPROPRIATION TO THE BUREAU OF ELECTIONS FOR
ADDITIONAL PERSONNEL.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Seventy-four thousand dollars
(\$74,000) is appropriated from the general fund to the bureau
of elections in the office of the secretary of state for
expenditure in fiscal year 2008 to fund two additional full-
time employees to serve as Native American voting coordinators.
Any unexpended or unencumbered balance remaining at the end of
fiscal year 2008 shall revert to the general fund.
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HOUSE BILL
48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007
INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT
MAKING AN APPROPRIATION TO THE BUREAU OF ELECTIONS FOR NATIVE
AMERICAN VOTER EDUCATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--One hundred fifty thousand
dollars (\$150,000) is appropriated from the general fund to the
bureau of elections in the office of the secretary of state for
expenditure in fiscal year 2008 for voter education for Native
Americans. Any unexpended or unencumbered balance remaining at
the end of fiscal year 2008 shall revert to the general fund.
.164205.1

HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR A RURAL NAVAJO ORAL HEALTH CARE
PLAN.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Three million dollars
(\$3,000,000) is appropriated from the general fund to the
higher education department for San Juan college for
expenditure in fiscal years 2008 through 2012 to develop,
establish and maintain a rural oral health intervention and
prevention program for children up to four years of age who are
members of the Navajo Nation. Any unexpended or unencumbered
balance remaining at the end of fiscal year 2012 shall revert
to the general fund.

.164254.1

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SENATE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR AN INTERNATIONAL INDIGENOUS
ENVIRONMENTAL FILM FESTIVAL.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Two hundred fifty thousand
dollars (\$250,000) is appropriated from the general fund to the
tourism department for expenditure in fiscal year 2008 for an
international indigenous environmental film festival to be held
in New Mexico in 2008. Any unexpended or unencumbered balance
remaining at the end of fiscal year 2008 shall revert to the
general fund.

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HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR A NATIVE AMERICAN YOUTH-LED PEER-
TO-PEER SUICIDE PREVENTION PROGRAM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--One hundred thousand dollars
(\$100,000) is appropriated from the general fund to the
department of health for expenditure in fiscal year 2008 to
implement a Native American youth-led peer-to-peer suicide
prevention program. Any unexpended or unencumbered balance
remaining at the end of fiscal year 2008 shall revert to the
general fund.

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HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR INCREASED AND CULTURALLY
APPROPRIATE MENTAL HEALTH CARE FOR NATIVE AMERICAN STUDENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Five hundred thousand dollars
(\$500,000) is appropriated from the general fund to the
department of health in coordination with the university of New
Mexico health sciences center for expenditure in fiscal year
2008 to provide increased hours of service by mental health
care providers in school-based health care centers at schools
with at least fifteen percent Native American students and to
provide culturally appropriate training for such providers;
provided that at least ninety-eight percent of this
appropriation must go to direct student mental health care
services or mental health care provider training. Any

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1 unexpended or unencumbered balance remaining at the end of
2 fiscal year 2008 shall revert to the general fund.

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HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR A NATIVE AMERICAN EDUCATIONAL
OUTREACH PROGRAM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Two hundred twenty-five
thousand dollars (\$225,000) is appropriated from the general
fund to the Indian affairs department for expenditure in fiscal
year 2008 to implement a culturally sensitive educational
outreach program for Native American students. Any unexpended
or unencumbered balance remaining at the end of fiscal year
2008 shall revert to the general fund.

.164467.1